

# **Village of Muir Zoning Ordinance**

**RECOMMENDED BY:**  
Planning and Zoning Commission, September 18<sup>th</sup>, 2023

**ADOPTED:**

**EFFECTIVE:**

**AS AMENDED:**



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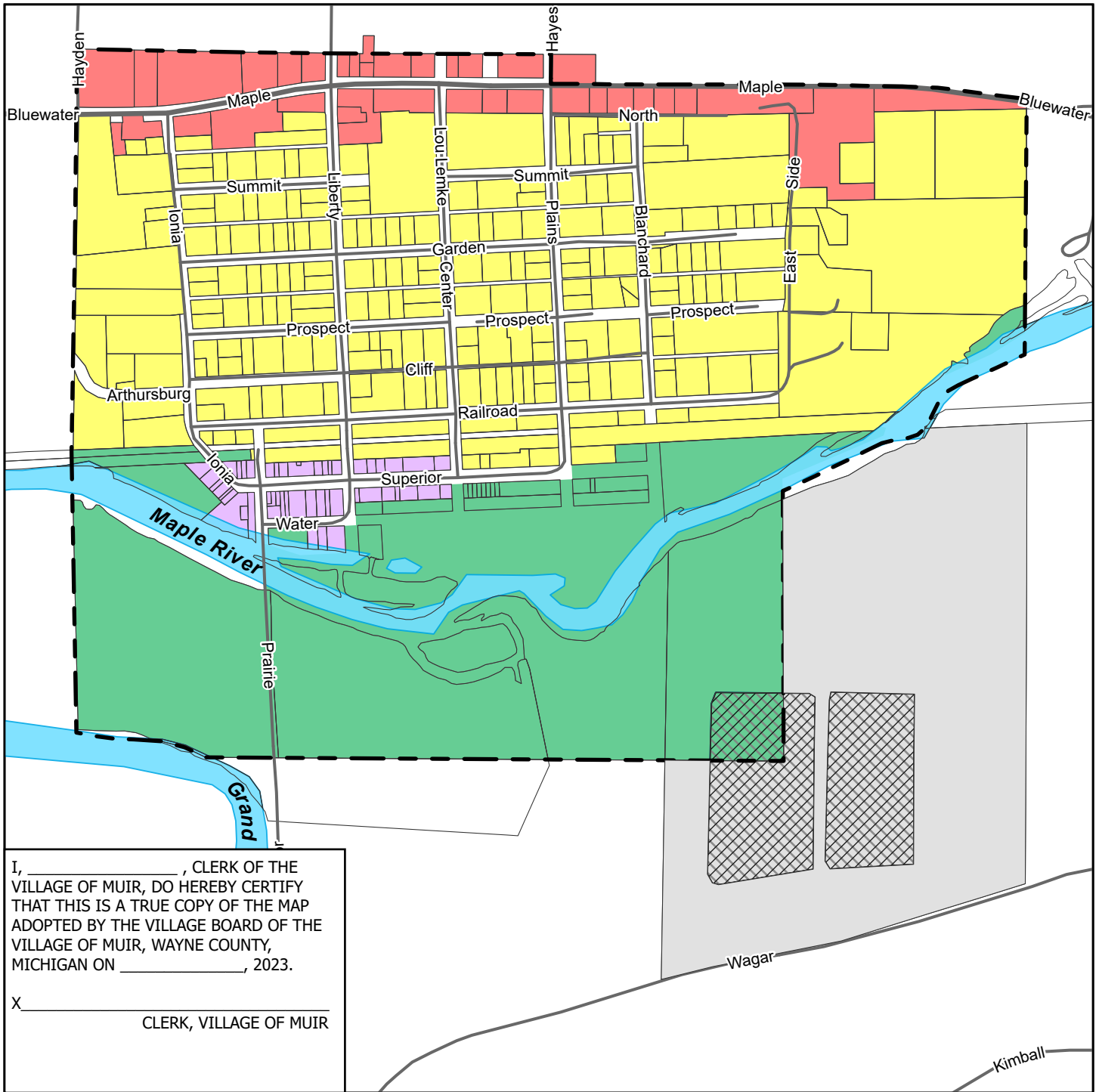
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# Article 1 Zoning Map

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I, \_\_\_\_\_, CLERK OF THE VILLAGE OF MUIR, DO HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE MAP ADOPTED BY THE VILLAGE BOARD OF THE VILLAGE OF MUIR, WAYNE COUNTY, MICHIGAN ON \_\_\_\_\_, 2023.

X \_\_\_\_\_  
CLERK, VILLAGE OF MUIR

# Official Zoning Map

Village of Muir, Ionia County, MI

**NOT YET ADOPTED**  
**RECOMMENDED 9-18-23**

Basemap Source: Michigan Center for Geographic Information, v. 17a.  
Data Sources: Ionia County 2023, McKenna 2023.



## LEGEND

- Village Boundary
- Water Features
- Roadways
- Parcel Lines
- Water Treatment Ponds
- Village-Owned Parcels Outside Village Boundary



## Zoning Districts

- (N) Neighborhood
- (D) Downtown
- (H) Highway
- (A) Agriculture

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## **Article 2     Zoning Bill of Rights**

The following principles shall apply to this Zoning Ordinance. The Zoning Board of Appeals, upon determining that a requirement of this Ordinance causes the violation of one of these principles when applied to a particular property, shall grant a variance from that Ordinance requirement. This section shall only be amended by unanimous vote of the Village Council, during the amendment process described in Section 14.07.

- (A) All lots existing at the time of adoption of this Zoning Ordinance shall be considered conforming and buildable.
- (B) Outdoor seating for restaurants, bars, coffee shops, ice cream shops, and other businesses on private property shall be permitted in all circumstances and shall not be regulated by this Zoning Ordinance.
- (C) There shall be no minimum number of parking spaces required on any lot within the Village.
- (D) The content and design of signage shall not be regulated by this Ordinance.
- (E) Non-conforming structures may be repaired or improved without restriction, provided the non-conformity is not expanded.
- (F) No lot within the Village shall be prohibited by the Ordinance from containing a dwelling unit.
- (G) No lot within the Village shall be reserved exclusively for single family housing.
- (H) No legal use of land shall be completely excluded from the Village by this Ordinance.
- (I) Mixed use buildings or developments shall be permitted on all lots throughout the Village.



# Article 3 Title, Purpose, and Scope

## Section 3.01 Title

This Ordinance shall be known as the “Zoning Ordinance of the Village of Muir.” Within the following text, it may be referred to as the “Ordinance” or the “Zoning Ordinance.”

## Section 3.02 Purpose

This Ordinance is based on the Village of Muir Master Plan, approved by the Village Council on January 10, 2023, as it may be amended from time to time, and is intended and designed to regulate the use of land. This Ordinance is adopted with reasonable consideration, among other things, of the character and natural features of various areas of the Village, the suitability of each area for particular uses, the support of property values and the conservation of the natural character and features of the Village.

## Section 3.03 Scope

- (A) The provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standards shall govern.
- (B) Where any provision of this Ordinance conflicts with the provisions of an easement, covenant, master deed, or other private agreement, whichever imposes a higher standard or requirement shall apply.
- (C) The enforcement of regulations in this ordinance does not preclude the enforcement of private deed or plat restrictions, provided there is no conflict with the zoning regulations contained herein. The Village shall have no authority or responsibility to enforce the provisions of deed or plat restrictions.
- (D) Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved; placed; reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

## Section 3.04 Creation of Districts

For the purposes of this Ordinance, Village of Muir is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

- (A) **A Agricultural District:** This zoning district is intended primarily for agricultural use, and to maintain the rural character of the district area in an open, partly natural state.
- (B) **N Neighborhood District:** This zoning district is intended to provide and maintain a residential living environment with housing of many types, for a wide variety of lifestyles, and to allow home-based businesses to operate and grow.
- (C) **H Highway District:** The intent of the Highway District is to protect and enhance the commercial character of the M-21 corridor, while promoting vibrancy and economic vitality by allowing a broad mix of appropriate uses, including housing.
- (D) **D Downtown District:** The intent of this zoning district is to preserve and enhance the Village’s historic downtown, by promoting a mix of uses within a walkable urban framework.



# Article 4 Table of Permitted Uses

## Section 4.01 Table of Permitted Uses

**P= Permitted by Principal Use**

**HB = Permitted as Home-Based Business (See Section 7.03)**

**S= Permitted by Special Use Permit**

**X = Prohibited**

Multiple uses are permitted on all lots, provided that all uses included are permitted in the Zoning District or receive Special Use Permits as applicable.

Use	A	N	H	D
Agritourism	S	X	X	X
Bank	X	P	P	P
Barber Shops/Beauty Shops	P	S/HB	P	P
Bed and Breakfast	P	P	P	P
Boarding Kennels (Commercial)	P	S/HB	S	X
Breeding Kennels (Commercial)	P	S/HB	S	X
Brewpub/Microbrewery/Distillery	X	S	P	P
Campground	P	P	X	S
Cemetery	P	P	P	P
Child Care Center (Non-Home-Based)	S	S	P	P
Crop Cultivation	P	P	P	P
Drive-Thru	X	X	S	S
<b>Dwelling Units</b>				
Single Family (One Unit on Lot)	P	P	P	P
Duplex (Two Units on Lot)	P	P	P	P
Triplex (Three Units on Lot)	P	P	P	P
Quadplex (Four Units on Lot)	P	P	P	P
Townhouse	X	S	P	P
Multiple Family (More than Four Units, including Senior Housing)	X	S	P	P
Manufactured Housing	P	P	P	P
Accessory Dwelling Unit	P	P	P	P
State-Licensed Residential Facility (non-Daycare)	S	S	S	S
Essential Services	P	P	P	P
Family Day Care Home	P	P	P	P
Funeral Home and Mortuary	S	S	P	P
Government or Public Building	P	P	P	P
Group Day Care Home	P	P	P	P
Hotel	X	X	P	P
Institution of Higher Education	P	P	P	P

Use	A	N	H	D
Manufacturing	X	X	P	S
Marihuana Establishment	S	X	S	S*
Medical or Dental Clinic	HB	HB	P	P
Mini-Warehouse	X	X	P	X
Office	HB	P	P	P
Open Air Business	P	S/HB	P	P
Pet Shop and Pet Grooming	HB	S/HB	P	P
Preservation/Conservation Area	P	P	P	P
Primary/Secondary School	P	P	P	P
Recreation - Indoor	X	X	P	P
Recreation - Outdoor	P	S	P	P
Religious Institution	P	P	P	P
Restaurant/Bar	X	S	P	P
Retail Store, including Food Sales	HB	S/HB	P	P
Sexually Oriented Businesses	X	X	S	X
Solar Energy System – Small	P	P	P	P
Solar Energy System – Large	S	X	S	X
Theater	X	S	P	P
Utility Structures and Substations	P	P	P	P
Vehicle Dealership	HB	HB	P	P
Vehicle Filling Stations (Gas Stations)	X	X	P	S
Vehicle Repair	HB	HB	P	P
Vehicle Wash	HB	HB	P	P
Veterinary Clinics	HB	HB	P	P
Warehousing	X	X	P	P
Wholesale	P	X	P	P
Wind Energy Conversion Systems	S	S	S	S
Wireless Telecommunications	P	P	P	P

*\*Marihuana growers are not permitted in the Downtown District per Section 6.21*

(A) The Planning and Zoning Commission shall have the authority to determine that a use not listed above is similar in character and intensity to the uses permitted in a given district, and therefore permit that use, either as a principal use or as a home-based business. In determining the “character and intensity” of a use, the Planning and Zoning Commission shall determine that the use is consistent with the uses permitted in the district in terms of the following.

- (1) Noise
- (2) Odor
- (3) Dust
- (4) Vibration
- (5) Number of People Likely to Gather on Site
- (6) Traffic Generation
- (7) Scale
- (8) Massing
- (9) Impact on Natural Features
- (10) Views from Nearby Properties



# Article 5 Zoning Districts

## Section 5.01 Schedule of Regulations for Principal Structures

	Minimum Lot Dimensions <sup>c</sup>		Maximum Structure Height		Minimum Required Setback (in feet) <sup>f</sup>			Minimum Dwelling Unit Size (total floor area) (Sq. ft.)
	Area <sup>a</sup> (Sq. ft.)	Width (Feet)	Stories	Feet <sup>d</sup>	Front Yard	Each Side Yard <sup>b</sup>	Rear Yard	
A	43,560	75	3	40	5	5	5	200
N	4,356	40	3	40	5	5	5	200
H	10,000	75	4	50	30	10	10	200
D	None	25	None	None	None <sup>e</sup>	None	None	120

### FOOTNOTES TO THE SCHEDULE OF REGULATIONS

- (a) **Lot Area.** No new parcel shall be created unless the parcel has adequate usable lot area, such that the parcel can be built upon in compliance with Zoning Ordinance standards. All lots existing at the time of adoption of this Zoning Ordinance shall be considered conforming and buildable.
- (b) **Setback on Side Yards Facing a Street.** On corner lots there shall be maintained a front yard along each street frontage.
- (c) **Lot Depth and Proportions.** Lot depths of newly created lots shall be no greater than four times the lot width.
- (d) **Maximum Height:** The maximum heights listed in the table shall be the maximum building height based on the definition of that term in Section 20.01, i.e. measured from grade to the halfway point between the peak and the eaves.
- (e) **Build-To Line:** Along Superior Street, East of Prairie Street and West of Liberty Street, all new buildings shall be built with zero setback from the right-of-way line of the street abutting the front lot line.
- (f) **Minimum Setback Exemption.** The minimum side or rear setback may be waived by the Planning Commission if the applicant provides certification from the Fire Chief that no fire hazard will be caused by the placement of proposed buildings.

## **Section 5.02 How to Measure Setbacks**

- (A) Setbacks shall be measured along the ground from the property line to the nearest load-bearing foundation of the principal building.
- (B) **Porches and Decks Exempt.** Unenclosed porches and decks shall be exempt from setback requirements.

## **Section 5.03 Adoption of Zoning Map**

The boundaries of the Zoning Districts listed in this Ordinance are hereby established as shown on the Official Zoning Map of Village of Muir. The Zoning Map with all notations, references, and other information shown thereon shall be, and is hereby declared to be a part of this Ordinance as if fully described herein.

## **Section 5.04 Interpretation of District Boundaries**

The following rules shall apply to the interpretation of zoning district boundaries:

- (A) Boundaries indicated as approximately following the center lines of streets, roads, railroad rights-of-way, or alleys shall be construed to follow such center line.
- (B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (C) Boundaries indicated as approximately following Village limits shall be construed as following such limits.
- (D) Boundaries indicated as approximately following the center lines of streams, rivers, or other bodies of water shall be construed to follow such center lines.
- (E) Boundaries indicated as approximately following the shoreline a body of water shall be construed to follow such shoreline; in the event of a change in the shoreline, the boundary shall be construed as moving with the actual shoreline.
- (F) Where there is any uncertainty, contradiction, or conflict concerning the intended location of zoning district boundaries, the Zoning Board of Appeals shall interpret the exact location of zoning district boundaries.
- (G) Insofar as some or all of the various districts may be indicated on the zoning map by patterns that, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of the rights-of-way.

## **Section 5.05 Zoning of Vacated Areas**

Whenever any street, alley, or other public way within the Village is vacated, such street, alley, or other public way shall be automatically classified in the same Zoning District as the property to which it attaches, and shall be subject to the requirements for said Zoning District.

## **Section 5.06 Zoning of Filled Land**

Whenever any fill is permitted in any stream or other body of water, the land created automatically and without further governmental action becomes subject to the same zoning regulations that are applicable to the land to which the newly created land attaches.

# Article 6 Uses

## Section 6.01 Intent

Each use listed in this Article, whether permitted by right or subject to approval as a special land use, shall be subject to the site development standards specified, in addition to applicable standards and requirements for the district in which the use is located. These standards are intended to alleviate the impact from a use that is of a size or type, or that possesses characteristics which are unique or atypical in the district in which the use is located. These standards are further intended to assure that such uses will be compatible with surrounding uses and the orderly development of the district. Conformance with these standards shall be subject to site plan review.

## Section 6.02 Adult Day Care Home

- (A) **Definition:** Daytime care of any part of the day, but less than 24-hour care, for functionally impaired adults, provided through a structured program of social and rehabilitative and/or maintenance services, within a residential home.
- (B) **Standards:** No additional standards.

## Section 6.03 Agritourism

- (A) **Definition:** The practice of visiting an agribusiness, horticultural, or farm, including, but not limited to, a farm, orchard, winery, greenhouse, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.
- (B) **Standards:** The following provisions shall apply to agritourism operations:
  - (1) **Purpose and Intent:** The purpose and intent of this section is to allow and regulate operations and businesses that invite the public to engage with and experience the inner workings of agriculture and food production. In combination with a conventional farm, the following activities may constitute an agricultural tourism event: ongoing uses such as a winery and tasting room, frequent seasonal uses such as a cider mill, cooking demonstrations, corn mazes, fishing pond, food service, petting farms, seasonal you-pick fruits and vegetables, animal displays, pony rides, wagon/sleigh/hay-rides, nature trails, picnic facilities, educational classes, historical agriculture exhibits, and playscapes. This list is not intended to be all inclusive of activities that may be considered agricultural tourism. The Planning and Zoning Commission should use the spirit of this definition when determining whether a use constitutes agritourism.
  - (2) **Impact on Surrounding Properties.** The location, layout, design, and operation of such a facility shall not impair the continued enjoyment, use, and future development of adjacent and nearby properties.
  - (3) **Buildings.** More than one (1) Building may be permitted per parcel.
  - (4) **Trash Containers.** A sufficient number of trash containers shall be placed on the premises for public use, based on evaluation of the following features: type of event, anticipated number of attendees, duration of event, geographic size of the event, and use of disposable beverage or food containers.
  - (5) **Restrooms.** A sufficient number of restrooms shall be available for public use, based on an evaluation by the Planning and Zoning Commission, of the following features: type of event, number of attendees, duration of event, availability of food and beverages, and special needs of attendees (e.g., families with children, people with disability needs, etc.). Temporary restrooms may be permitted, but all agritourism uses must have at least one permanent restroom.

- (6) **Building Setbacks.** Buildings shall comply with the setbacks for the district in which they are located.
- (7) **Overnight Accommodations.** Overnight accommodations related to an agritourism operation shall comply with the regulations for bed-and-breakfast establishments in Section 6.06.
- (8) **Exclusions.** The provisions in this subsection do not apply to the following uses, which are regulated elsewhere in this Ordinance:
  - (a) Nature centers or demonstration farms.
  - (b) Recreation facilities.
  - (c) Outdoor events.
  - (d) Roadside stands.
  - (e) Distilleries.
  - (f) Bed-and-breakfast establishments.
  - (g) Brewpubs and Microbreweries.
  - (h) Any use for which zoning regulations are superseded by Generally Accepted Agricultural and Management Practices (GAAMPS), such as farm markets.

## Section 6.04 Bank

- (A) **Definition:** A financial institution dedicated to accepting monetary deposits and providing loans. Credit unions shall be considered banks for the purposes of this Ordinance.
- (B) **Standards:** No additional standards.

## Section 6.05 Barber Shop or Beauty Shop

- (A) **Definition:** Includes day spas and spas. A personal service establishment offering any of a variety of health and beauty services including hair, nails, make-up, massage, and other related services.
- (B) **Standards:** No additional standards.

## Section 6.06 Bed and Breakfast

- (A) **Definition:** A dwelling unit where the live-in owners and/or operators provide or offer overnight accommodations, in rooms connected by interior hallways, consisting of a minimum of one bed room and a bathroom, for temporary guests for compensation, including provisions for a morning meal for overnight guests only, in addition to the rooms occupied by the live-in owners and/or operators.
- (B) **Standards.** The following regulations shall apply bed and breakfast establishments:
  - (1) **Bed and Breakfast Establishments as an Accessory Use.** A bed and breakfast establishment shall be clearly incidental to the principal residence on the site. Accordingly, the bed and breakfast operations shall be confined to the single-family dwelling unit that is the principal dwelling on the site. Not more than sixty-six percent (66%) of the total floor area of the dwelling unit may be used for bed and breakfast bedrooms.

- (2) **Maximum Number of Bed Rooms.** Seven (7) bed rooms. Any establishment otherwise meeting the definition of a bed and breakfast, but containing more than seven (7) bed rooms shall be considered a hotel under this ordinance.
- (3) **Principal Residence.** The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast facility is in operation.
- (4) **Kitchen Facilities.** There shall be no separate cooking facilities for the bed and breakfast establishment, other than those which serve the principal residence. Food may be served only to those persons who rent a room in the bed and breakfast facility.
- (5) Sleeping Rooms used shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
- (6) **Parking.** Adequate off-street parking shall be provided for bed and breakfast patrons, in accordance with Article 9.00.

## **Section 6.07 Brewpub/Microbrewery/Distillery**

- (A) **Definition:** A manufacturing establishment for alcoholic drinks that also includes a service area where customers can eat or drink. A manufacturing establishment for alcoholic drinks that does not provide a service area where customers can eat and drink shall be considered “manufacturing”, and not included under this definition.
- (B) **Standard:** Copies of all required state and federal licenses shall be submitted to the Village.

## **Section 6.08 Campground**

- (A) **Definition:** A lot on which five or more sites are offered, either free of charge or for a fee, for temporary lodging in a tent, travel trailer, motor home, folding tent trailer, or other similar recreational vehicle. Campground does not include a seasonal mobile home park licensed under the Mobile Home Commission Act (Public Act 96 of 1987).
- (B) **Standards.**
  - (1) No site shall be occupied by the same tenant for more than 90 consecutive days during the period of May 1 through September 15. Occupancy during the period of September 16 through April 30 shall not exceed 14 consecutive days.
  - (2) The campground shall provide individual campsites that are located and identified on any plans submitted to the Village for review or approval.
  - (3) Each campsite shall be at least 1,200 square feet in size.
  - (4) Each campsite shall be provided with individual water and sanitary sewer connections or shall have access to an on-site restroom and shower facility within 400 feet.

- (5) Buildings, structures, and areas designated for camping shall be located a minimum of 50 feet from all lot lines abutting any property containing a pre-existing dwelling unit.
- (6) A campground shall provide customer site piping to convey water from the service connection to the points of use within the campground, as provided for in the Safe Water Drinking Act, Public Act 399 of 1976, as amended, and rules promulgated under the Act. A campground shall provide a private sewer collection system as permitted by the Michigan Department of Environment, Great Lakes, and Energy meeting the requirements of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended, and rules promulgated under the Act.
- (7) Internal private road rights-of-way shall not be less than forty (40) feet wide. The driving surface shall have an aggregate or paved surface at least 20 feet in width and at least a 2-foot-wide shoulder on each side. The right-of-way shall be free of obstructions, provide free and easy access to abutting sites, and shall be maintained in a passable and reasonably dust-free condition. The campground owner shall ensure that vehicles do not park in the road right-of-way on roads having a width below 27 feet. Parking may be permitted on one side of a road having a minimum width of 27 feet.
- (8) Unoccupied recreational vehicles that are not parked or stored in a building may be parked or stored on site, as long as the vehicles comply with minimum front, side, and rear setback requirements for accessory structures.
- (9) Prior to construction, an applicant must provide proof of the receipt of a Campground Construction Permit issued in accordance with Part 125 of Michigan's Public Health Code (Public Act 368 of 1978), as amended.

## Section 6.09 Cemetery

- (A) **Definition:** Land used for the burial of the dead, possibly including a columbarium, crematorium, or mausoleum.

**Standards** No portion of any cemetery that is located in a wetland or within the 100-year flood boundary shall be developed or platted for grave sites.

- (1) The cremation, burning, or destruction of human or animal remains is prohibited in the Neighborhood District. The Planning Commission may waive this requirement if an applicant is able to provide reasonable evidence, such as verification by a Certified Engineer, that excessive smoke, smells, noise, vibration, or other related nuisance will not be detectable beyond the boundaries of the site.

## Section 6.10 Child Care Center (Non-Home Based)

- (A) **Definition:** A facility, other than a private residence, receiving school age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two (2) consecutive weeks regardless of the number of hours of care per day. The facility is generally described as a child care center. "Child Care Center" or "Day Care Center" does not include instruction solely for religious purposes conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

- (B) **Standards:** No additional standards.

## Section 6.11 Crop Cultivation

- (A) **Definition:** The growing of plants for commercial sale, not including the cultivation of marihuana, which is regulated under Village Ordinance 59.
- (B) **Standards:** No additional standards.

## Section 6.12 Drive-Thru

- (A) **Definition:** A facility designed to serve customers in their cars from a window in the building, so that the cars are idled while being served, rather than parked.
- (B) **Standards.** Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.

## Section 6.13 Dwelling Units

### (A) Single Family, Duplex, Triplex, or Quadplex.

- (1) **Definition:** A room, or rooms, within one independent structure, connecting together constituting separate, independent dwelling units for one to four families.
- (2) **Standards:** No additional standards.

### (B) Multiple Family Housing, Senior Housing, and Townhouses.

- (1) **Definition:** A building or complex of multiple buildings comprising more than one separate, independent dwelling unit on a single parcel or tract of land. Buildings or complexes designed for senior housing, but not including assisted living, shall be considered “multiple family housing” for purposes of this Ordinance. Facilities consistent with the definition of “Manufactured Housing Park” shall not be considered “Multiple Family Housing”.
- (2) **Standards.** The following site development standards shall apply to multiple family and housing developments:
- (a) **Maximum Density:** A multiple family housing development in the N District shall not exceed ten units per gross acre of land. There shall be no limit on density in any other zoning district.
- (b) **Utilities.** Multiple family developments shall be served by public water and sewer. Expansions and connections shall not be the financial responsibility of the Village.

### (C) Manufactured Housing.

#### (1) Definitions:

- (a) **Manufactured Home:** A building or portion of a building designed for long-term residential use that is designed to be transported to the site in a nearly complete form.
- (b) **Manufactured Housing Park:** A lot containing more than two manufactured homes.

#### (2) Standards.

- (a) **One Manufactured Home.** A single manufactured home on a lot shall be considered the same as a single-family home for the purposes of this Ordinance.

**(b) Requirements for Manufactured Housing Parks (Two or More Manufactured Homes).**

The creation of a Manufactured Housing Park shall require a Special Use Permit in the N District and be prohibited in all other districts. The regulations established by State law (Michigan Public Act 96 of 1987, as amended) and the Michigan Manufactured Housing Commission shall govern mobile home parks. The applicant must demonstrate compliance with those regulations prior to the approval of the Special Use Permit.

**(D) Accessory Dwelling Units.**

**(1) Definition:** A second dwelling unit associated with a principal single-family dwelling which cannot be sold separately from the principal dwelling unit.

**(2) Standards.** The following regulations shall apply to accessory dwelling units:

**(a) Residence is an Incidental Use.** The accessory dwelling unit shall be clearly incidental to the principal residence on the site. Accordingly, the following conditions shall be met:

**(i)** Accessory dwelling units shall be established on the same lot as owner-occupied homes.

**(ii)** Only one (1) such accessory residence shall be permitted on each parcel.

**(E) State-Licensed Residential Facilities (Non-Daycare).**

**(1) Definition:** Any structure constructed for residential purposes and licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act), including adult foster care facilities, foster family homes, and foster family group homes, but not including family day care homes and group day care homes for the care of children.

**(2) Standards.** State-Licensed residential facilities requiring special use approval shall not be located nearer than 1,000 feet to another State-Licensed Residential Facility that required special use approval.

## **Section 6.14 Funeral Home or Mortuary**

**(A) Definition:** An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held.

**(B) Standards.** The cremation, burning, or destruction of human or animal remains is prohibited in the Neighborhood District. The Planning Commission may waive this requirement if an applicant is able to provide reasonable evidence, such as verification by a Certified Engineer, that excessive smoke, smells, noise, vibration, or other related nuisance will not be detectable beyond the boundaries of the site.

## **Section 6.15 Government and Public Building**



(A) **Definition:** Principal structures dedicated to the use by the public or government operations. For the purposes of this Ordinance, Government or Public buildings shall include libraries, museums, municipal offices, County, State, or Federal Offices, police and fire stations, and other buildings used by the public or government. Except Primary/Secondary Schools, Institutions of Higher Education, public recreational facility buildings which shall be defined as described in this section, and shall not be considered Government or Public buildings

(B) **Standards.** No additional standards.

## **Section 6.16 Family Day Care Home**

(A) **Definition:** A private home (where the licensee permanently resides as a member of the household) with the approved capacity of 1 to 6 minor children to be cared for less than 24 hours a day unattended by a parent or legal guardian. The limit on the number of children at a Family Child Care Home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than 4 weeks in a calendar year.

(B) **Standards:**

(1) **Location.** Such facilities shall be located in the permanent residence of the operator.

(2) **Fencing.** The perimeter of any yard used for play or instruction shall be enclosed by a fence that is a minimum of four (4) feet in height to prevent children from departing or entering the yard without permission of an adult employee or the operator.

(3) **Licensure.** Evidence of licensure by the State of Michigan must be submitted to the Village.

## **Section 6.17 Group Day Care Home**

(A) **Definition:** A private home with the approved capacity of 7 to 12 minor children for less than 24 hours a day unattended by a parent or legal guardian. The limit on the number of children does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than 4 weeks in a calendar year.

(B) **Standards.**

(1) **Location.** Such facilities shall be located in the permanent residence of the operator.

(2) **Fencing.** The perimeter of any yard used for play or instruction shall be enclosed by a fence that is a minimum of four (4) feet in height to prevent children from departing or entering the yard without permission of an adult employee or the operator.

(3) **Licensure.** Evidence of licensure by the State of Michigan must be submitted to the Village.

## **Section 6.18 Hotel**

(A) **Definition(s):** A building occupied as a temporary abiding place for individuals who are lodged, with or without meals, in rooms connected by interior hallways, consisting of a minimum of one bedroom and a bath, occupied for hire, and which typically provides hotel services such as maid service, the furnishing and laundering of linens, telephone and desk service, the use of furniture, a dining room and meeting rooms.

(B) **Standards:** No additional standards.

## **Section 6.19 Institution of Higher Education**

(A) **Definition:** A facility dedicated to providing education and training primarily to persons that have already earned a high school diploma or equivalent.

(B) **Standards:** No additional standards.

## **Section 6.20 Manufacturing**

(A) **Definition:** A use engaged in the creation of products, predominantly from previously prepared material of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

(B) **Standards:** No additional standards.

## **Section 6.21 Marihuana Establishment**

(A) **Definition:** A marihuana grower, marihuana microbusiness, marihuana retailer, or any other type of business licensed by the Village of Muir to operate under Ordinance 59, the Village of Muir Commercial Marihuana Establishment Act.

(B) **Standards:**

(1) Marihuana Establishments shall comply with the standards of Ordinance 59, as amended.

(2) Marihuana Growers, as defined in Village Ordinance 59, are prohibited within the Downtown District.

## **Section 6.22 Medical or Dental Clinic**

(A) **Definition:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by physicians, dentists, or similar professionals. A 'medical clinic' may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

(B) **Standards:** No additional standards.

## **Section 6.23 Mini-Warehouse**

(A) **Definition:** A building or group of buildings, each of which contains several individual storage units, each with a separate door and lock and which can be leased on an individual basis. Mini-warehouses are typically contained within a fenced, controlled-access compound. Also known as self-storage facilities.

(B) **Standards:**

(1) **Permitted Use.** Mini-warehouse establishments shall provide for storage only. All such storage must be contained within an enclosed building.

(2) **Semi-Trailers.** Use of semi-trailers for storage is prohibited.

(3) **Storage Unit Electrification.** Electrical service, except for lighting, is prohibited within storage units.

## **Section 6.24 Office**

(A) **Definition:** A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenographic) equipment for current use in the office business and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties.

(B) **Standards:** No additional standards.

## **Section 6.25 Open-Air Business**

(A) **Definition:** Any commercial use that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

- (1) Retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- (2) Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- (3) Outdoor display and sale of garages, swimming pools, playground equipment, and other pre-constructed accessory buildings.

(B) **Standards.** Parking space and display areas shall be clearly delineated so that customers do not mistake them for each other.

## **Section 6.26 Pet Shop and Pet Grooming**

(A) **Definition(s):** A commercial business selling animals as pets, and providing pet care services, but not veterinary care.

(B) **Standards.** No additional standards.

## **Section 6.27 Preserve/Conservation Area**

(A) **Definition:** A use of land solely dedicated to preserving or returning to a natural state of site, with few or no buildings or structures.

(B) **Standards.** No additional standards.

## **Section 6.28 Primary/Secondary School**

(A) **Definition:** An educational institution serving students in any combination of grades between Kindergarten and high school graduation.

(B) **Standards.** No additional standards.

## **Section 6.29 Recreation – Indoor**

(A) **Definition:** Indoor uses that are designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits. Uses that fit this definition but are defined elsewhere in this Ordinance shall be considered to fall under the more specific definition.

(B) **Standards.** No additional standards.

## **Section 6.30 Recreation - Outdoor**

- (A) **Definition:** Outdoor uses that are designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.
- (B) **Standards.** Outdoor recreation facilities, such as, but not limited to, ski facilities, courses for off road vehicles and snowmobiles, baseball facilities, rugby fields and swimming pools, but not including trails, shall comply with the following regulations:

**(1) General Requirements.**

- (a) **Impact on Surrounding Properties.** The location, layout, design, or operation of outdoor recreation facilities shall not impair the continued enjoyment, use, and future orderly development of adjacent and nearby properties. The Planning and Zoning Commission may specify the hours of operation in order to assure compatibility with adjacent uses.
- (b) **Nuisance Impacts.** Outdoor recreation uses shall not generate excessive noise, odors, dust, or other impacts, such that the continued use and enjoyment of adjacent properties would be impaired.

(c) **Parking.** All parking shall be set back a minimum of forty (40) feet from the N District.

### **Section 6.31 Religious Institution**

- (A) **Definition:** Any church, synagogue, mosque, temple or building which is used primarily for religious worship and related activities.
- (B) **Standards:** The following regulations shall apply to all religious Institutions, including churches, synagogues, temples, etc.:
  - (1) **Maximum Height.** Religious institutions may exceed the maximum height standard for the districts if approved by the Planning and Zoning Commission.
  - (2) **Accessory Uses.** Accessory uses such as schools, gymnasiums, event centers, and offices shall comply with all relevant requirements of this Ordinance, including obtaining required Special Land Use approvals.

### **Section 6.32 Restaurant/Bar**

- (A) **Definition:** Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state.
- (B) **Standards:** No additional standards. For outdoor seating standards, see Section 7.10.

### **Section 6.33 Retail Store**

- (A) **Definition:** A business that sells products or provides services on the premises directly to consumers. Uses that fit this definition but are defined elsewhere in this Ordinance shall be considered to fall under the more specific definition.
- (B) **Standards:** No additional standards.

### **Section 6.34 Sexually Oriented Business**

- (A) **Definition:**
  - (1) The following shall be considered sexually oriented businesses, and therefore subject to this section:

- (a) **Adult Book or Supply Store:** An establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- (b) **Strip Club:** An establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, or topless and/or bottomless wait persons or employees.
- (c) **Adult Motion Picture Theater or Adult Live Stage Performing:** An enclosed building 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 herein), for observation by patrons therein. Such establishment customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- (d) **Adult Outdoor Motion Picture Theater:** A drive-in theater 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 herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

(2) The following terms shall have the following meanings:

- (a) **Specified Anatomical Areas:** Portions of the human body defined as follows:
  - (i) Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola.
  - (ii) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- (b) **Specified Sexual Activities:** The explicit display of one or more of the following:
  - (i) Human genitals in a state of sexual stimulation or arousal.
  - (ii) Acts of human masturbation, sexual intercourse, or sodomy.
  - (iii) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

**(B) Standards:**

- (1) Sexually oriented businesses shall not be permitted within 500 feet of each other.
- (2) Sexually oriented businesses shall be a minimum of 1,000 feet from all of the following:

- (a) K-12 Schools.
  - (b) Day-care centers.
  - (c) Libraries.
  - (d) Municipal Buildings.
  - (e) Parks.
  - (f) Houses of Worship.
- (3) The facility shall not by way of architectural features, design, display, decoration, window decorations or other displays call attention to the nature of the internal activities to the general public, which shall include minors.

## **Section 6.35 Solar Energy System (Small or Large)**

(A) **General Requirements.** All Solar Energy Systems are subject to the following general requirements:

- (1) All Solar Energy Systems must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.
- (2) Solar Energy Systems shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day.

(B) **Small Solar Energy Systems.**

- (1) **Definition:** A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.
- (2) **Standards.**
  - (a) **Roof or Building Mounted Small Solar Energy System.** Roof or building mounted Small Solar Energy Systems shall not require zoning approval unless they increase the height of the building in question by more than 15 feet.
  - (b) **Ground Mounted Small Solar Energy Systems.** Ground mounted Small Solar Energy Systems shall be considered an accessory use in all zoning districts, subject to the following requirements:
    - (i) A ground mounted Solar Energy System shall not exceed 20 feet in height.
    - (ii) A ground mounted Small Solar Energy System shall be located at least 10 feet from all property lines.

(C) **Large Solar Energy Systems.**

- (1) **Definition:** A Solar Energy System where the principal design, purpose or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.
- (2) **Standards.** In addition to any other requirements for special use approval, Large Solar Energy Systems shall be ground mounted and are subject to the following requirements:

- (a) The property owner or applicant for a Large Solar Energy System shall provide the Planning and Zoning Commission with proof of ownership of the subject property, a copy of any lease agreement for a Large Solar Energy System, together with an operations agreement, which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation.
- (b) The height of the Large Solar Energy System and any mounts shall not exceed 20 feet when oriented at maximum tilt.
- (c) Prior to installation, the applicant shall submit a descriptive site plan to the Planning and Zoning Commission which includes where and how the Large Solar Energy System will connect to the power grid.
- (d) A condition of every approval of a Large Solar Energy System shall be adequate provision for the removal of the system whenever it ceases to be used for one (1) year or more. In the event that a system has been abandoned (meaning not having been in operation for a period of one (1) year), the property owner and developer/applicant shall notify the Village and shall remove the system within six (6) months from the date of abandonment. Removal includes the proper receipt of a demolition permit from the Zoning Administrator and proper restoration of the site to the satisfaction of the Zoning Administrator. The site shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.
- (e) To ensure proper removal of a Large Solar Energy System upon discontinued use or abandonment, applications shall include a description of the financial security guaranteeing removal of the system which must be posted with the Village within fifteen (15) days after approval or before a construction permit is issued for the facility. The financial security shall be: 1) a cash bond; or 2) an irrevocable bank letter of credit or a performance bond, in a form approved by the Village. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Village. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Village in securing removal.
- (f) If the owner of the facility or the property owner fails to remove or repair the defective or abandoned Large Solar Energy System, the Village, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the Solar Energy System and recover any and all costs, including attorney fees.

## **Section 6.36 Theater**

- (A) **Definition:** A facility designed to accommodate groups of people viewing an artistic performance or motion picture. Theaters may be drive-in or indoor.
- (B) **Standards:** No additional standards.

## Section 6.37 Utility Structures and Substations

- (A) **Definition:** A facility for a service provider, which may be a company or a governmental agency, which provides such services as electric power, natural gas, sanitary sewers, water, telephone, etc.
- (B) **Standards.** Utility structures, substations, and similar uses shall comply with the following regulations:
- (1) **Location.** Where feasible, utility structures and public service buildings shall be located so as to not hinder the development of the area or detract from the value of adjoining development.
  - (2) **Off-site Impact.** Such uses shall not create a health or safety hazard, a nuisance, or have deleterious impact on the surrounding area either due to appearance or operation.
  - (3) **Security Fencing.** Security fencing may be permitted, subject to the requirements in Article 10.00.
  - (4) **Landscape Screening.** All utility structures and substations shall be screened from all adjoining lots in accordance with the standards of Section 10.02, regardless of the zoning district of the utility structure of substation or the zoning district of the adjacent lots.

## Section 6.38 Vehicle Dealership

- (A) **Definition:** A building or premises used primarily for the sale of new and used vehicles and other motor vehicles.
- (B) **Standards.**
- (1) These requirements shall apply to operations involved in the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, trucks, boats, and other vehicles.
  - (2) **Grading, Surfacing, and Drainage.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be graded and drained so as to dispose of surface waters. Grading, surfacing, and drainage plans shall be subject to review and approval by the Village.
  - (3) **Servicing of Vehicles** on the same lot shall be approved separately based on the standards in Section 6.40.

## Section 6.39 Vehicle Filling Station (Gas Station)

- (A) **Definition:** A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. 'Vehicle filling stations' may also incorporate a convenience store operation as an Accessory Use, provided it is clearly incidental to the filling station use, but no vehicle repairs shall be permitted.
- (B) **Standards.** The following regulations shall apply to Vehicle Filling Stations
- (1) **Canopy Setback.** Canopies shall be considered principal structures for the purpose of setbacks.
  - (2) **Servicing of Vehicles** on the same lot shall be approved separately based on the standards in Section 6.40.
  - (3) **Paving Surface.** Fueling areas shall be paved with concrete.



## Section 6.40 Vehicle Repair

(1) **Definition:** Repair of vehicles, including, but not limited to: Engine tune-ups and servicing of brakes, air conditioning exhaust systems; oil change or lubrication; wheel alignment or balancing; engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing.

(B) **Standards.**

(1) All painting operations shall be conducted within an enclosed building which shall be equipped with odor and fume-arresting devices and sufficient ventilation conforming to the most recent applicable regulations, to prevent any nuisance or annoyance from odor emanating from the building. The painting operations shall comply with the latest standards of the National Board of Fire Underwriters or other testing agencies accepted and approved by the Village Fire Marshal.

(2) All vehicle body shop operations shall be conducted within an enclosed building which shall be equipped with such special acoustical qualities as will prevent any nuisance or annoyance from noise emanating from the building.

(3) All lubrication equipment, vehicle wash equipment, hoists, and pits shall be enclosed entirely within a building. Service bay doors and windows shall be oriented so they face away from abutting residentially zoned property.

## Section 6.41 Vehicle Wash

(A) **Definition:** A commercial establishment contained within a building or premises or portion thereof where vehicles are washed.

(B) **Standards:** Driveways, vehicle maneuvering areas, and parking areas shall be paved and provided with proper underground drainage to prevent water from collecting on the surface or flowing onto adjoining property or streets. Drainage facilities shall be equipped with a mud and grease trap.

## Section 6.42 Veterinary Clinic

(A) **Definition:** An institution that is licensed by the Michigan Department of Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A 'veterinary clinic' may include customary pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services, and offices.

(B) **Standards.** No additional standards.

## Section 6.43 Warehousing

(A) **Definition:** A principal use of land in which a building is used primarily for storage of goods and materials to be sold at wholesale or retail.

(B) **Standards:** No additional standards.

## Section 6.44 Wholesale

(A) **Definition:** On-premise sale of goods primarily to customers engaged in the business of reselling the goods.

(B) **Standards:** No additional standards.

## Section 6.45 Wind Energy Facility

- (A) **Intent and Purpose:** This Ordinance is intended to protect the health, safety and welfare of the residents of the Village and to encourage the safe, effective, efficient and orderly development and operation of wind energy resources in the Village while preserving and protecting the character and the stability of residential, agricultural, recreational, commercial, industrial and other areas within the Village.
- (B) **Definitions:**
- (1) **Adverse Sound Character:** Sound that causes building rattle, is impulsive, tonal, includes amplitude modulation, or has a low-frequency bass rumble.
  - (2) **Ambient:** Ambient is defined as the sound pressure level exceeded 90% of the time over a 96-hour measurement period with daytime/nighttime division.
  - (3) **ANSI:** the American National Standards Institute.
  - (4) **Audible:** The varying degrees of sound perception as reported by affidavit, including, but not limited to, just perceptible, audible, clearly audible, and objectionable.
  - (5) **dBA:** The A-weighted sound level.
  - (6) **dBC:** The C-weighted sound level.
  - (7) **Decibel (dB):** The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 microPascals); abbreviated "dB."
  - (8) **Emergency work:** Any work or action necessary to deliver essential services in an emergency situation, including, but not limited to, repairing water, gas, electricity, telephone and sewer facilities and public transportation, removing fallen trees on public rights-of-way, and abating life-threatening conditions.
  - (9) **Equivalent Sound Level (or Leq):** The sound level measured in decibels with an integrating sound level meter and averaged on an energy basis over a specific duration.
  - (10) **Excessive noise:** Sound that is determined by ordinance to be too loud or unnecessary or creates a noise disturbance.
  - (11) **FAA:** The Federal Aviation Administration
  - (12) **GIS:** Geographic Information System and is comparable to GPS (global positioning system) coordinates.

- (13) **IEC:** The International Electrotechnical Commission
- (14) **ISO:** The International Organization for Standardization
- (15) **LMax (LAMax or LCMax):** The maximum db(A) or db(C) sound level measured using the “fast response” setting of the sound meter (equivalent to 0.125 second exponential averaging time)
- (16) **Lease Unit Boundary:** The boundary around a property or properties leased or purchased for purposes of operating a wind energy facility, including leased or purchased adjacent parcels to the parcel on which the wind energy facility tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road rights of way.
- (17) **L10:** Is the noise level exceeded for 10% of the time of the measurement duration. This is often used to give an indication of the upper limit of fluctuating noise, such as that from road traffic.
- (18) **L90:** Is the noise level exceeded for 90% of the time of the measurement duration and is commonly used to determine ambient or background noise level.
- (19) **Noise:** A sound that causes disturbance that exceeds 45 db(A) (Lmax) or 55 db(C) (Lmax).
- (20) **On Site Wind Energy Conversion System (also called Small Scale):** A wind energy conversion system less than 80 feet in total height with the blade fully extended (tip height) intended to generate electric power from wind solely for the use of the site on which the system is located. Small-scale WECS that are primarily intended to provide on-site power, but contribute surplus energy to the grid, may also be considered On-Site Small-Scale WECS. Small scale wind energy systems that consistently sell power back to the public grid will require a Special Use permit.
- (21) **Pooled Parcel** - A landowner who has leased land to the WECS Applicant, received financial remuneration from the WECS Applicant, recorded with the Ionia County Register of Deeds said agreement, and has a contract with the WECS Applicant. A Pooled Parcel may also be called a WECS contract leaseholder. A Pooled Parcel may or may not have turbines or infrastructure located on their property.
- (22) **Quiet Rural or Residential property:** Any property where there is an inherent expectation of quiet, including, but not limited to, all residential, business, or agricultural-zoned properties, single family homes, and retirement homes.

- (23) **SCADA (supervisory control and data acquisition):** A computer system that Matteson Village uses to control WECS units.
- (24) **Sound level meter:** An instrument for the measurement of sound levels that meets the ANSI requirements of S1.4-1983 (or later revision) for Type 1 or 2 instruments. For frequency analysis, octave and 1/3 octave filters shall conform to ANSI S1.11-1986 (or later revision).
- (25) **Sound Pressure:** An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.
- (26) **Sound Pressure Level:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
- (27) **Strobe Effect:** The effect resulting from the flashing of reflected light, which can be visible from some distance, from the surface finish of turbine blades.
- (28) **Survival Wind Speed:** The maximum wind speed, as designated by the WECS manufacturer, at which a WECS in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- (29) **Tip Height:** The height of the turbine with a blade at the highest vertical point.
- (30) **Unpooled Parcel** - A landowner who has not signed a contract or any legal document with the WECS Applicant and has not given up rights to their owned land to the WECS Applicant.
- (31) **Utility Scale (also known as Commercial and/or Large-Scale) Wind Energy Conversion System:** A wind energy conversion system greater than eighty (80) feet in total height (tip height) intended to generate power from wind primarily to supplement the greater electric utility grid. Utility-scale WECS include accessory uses such as, but not limited to, SCADA towers, anemometers, or electric substations.
- (32) **WECS Applicant:** The person, firm, corporation, company, limited liability corporation or other entity, as well as the Applicant's successors, assigns and/or transferees, which applies for Village approval (permit) to construct a WECS and WECS Testing Facility. An Applicant must have the legal authority to represent and bind the Pooled Parcel, or lessee, who will construct, own, and operate the WECS or Testing Facility. The duties and obligations regarding a zoning approval for any approved WECS or Testing Facility shall be with the WECS or Testing Facility owner, and jointly and severally with the owner, operator, and lessee of the WECS or Testing Facility if different than the WECS owner.
- (33) **Wind Energy Conversion System (WECS):** Any combination of the following:
- (a) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
  - (b) A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
  - (c) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;
  - (d) The generator, alternator, or another device to convert the mechanical energy of the surface area into electrical energy;

- (e) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
- (f) Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

**(34) Wind Energy Conversion System (WECS) Testing Facility:** A structure and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source, shall not be deemed to be a communication tower.

**(35) Wind Energy Facility:** Clusters of two or more Utility Grid Wind Energy Conversion Systems, placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the Wind Energy Conversion Systems are located. Said Wind Energy Conversion Systems may or may not be owned by the owner of the property upon which they are placed.

(C) **Standards for On-Site Wind Energy Conversion System (Also Called Small Scale).** The following standards shall apply to On-Site WECS, including Anemometer Towers, in addition to the general Special Approval/Special Land Use requirements of this Ordinance:

**(1) Required Information**

- (a) Diagram of wind turbine showing blade length and ground clearance
- (b) Engineering Data concerning construction of the tower base
- (c) **Site Plan.** The Applicant shall submit a site plan in full compliance with this Ordinance.
  - (i) Documentation that noise emissions, construction code, tower, and safety requirements have been reviewed by the appropriate third-party professional and the submitted site plan is prepared to show compliance with these issues.
  - (ii) The project area boundaries, including all boundaries within pooled parcels.
  - (iii) The location, height, and dimensions of all existing and proposed structures and fencing.
  - (iv) The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest private road, Village road, or State maintained road.
  - (v) All new infrastructure above and below ground related to the project, including transmission line locations.

**(2) Regulations**

- (a) Height.** On-Site WECS shall have a maximum height of 80 feet or less; except where state and federal regulations may require a lesser height; or where, as a condition of special use approval, the Planning and Zoning Commission requires a lesser height. Height is measured from the average grade at the base of the tower to the highest point of WECS when a blade is in its vertical orientation.
- (b) Setbacks.** The distance between an On-Site WECS and the property lines shall be equal to 110% of the height of the tower including the top of the blade in its vertical position. The distance between an accessory structure associated with the WECS and all property lines shall be at least the minimum setback for all accessory structures in the zoning district the WECS is located within. On-site WECS and associated accessory structures shall not count towards the maximum number of accessory structures on a given lot.
- (c) Minimum Ground Clearance.** The minimum vertical blade tip clearance from grade and any structure, adjoining property, or tree shall be 20 feet.
- (d) Noise Emission.** Noise emitting from an on-site WECS shall not exceed 35 dB(A) ( $L_{max}$ ) or 45 dB(C) ( $L_{max}$ ) at the property line closest to the WECS.
- (e) Shadow Flicker.** On-site WECS shall produce no shadow flicker on any adjacent property. Measures to eliminate all effects of shadow flicker on adjacent properties, such as programming the WECS to stop rotating during times when shadow crosses occupied structures, may be required.
- (f) Fluid Containment.** Each On-Site WECS shall include both an internal and external fluid containment barrier located either within the nacelle, or at the base of the nacelle in the event of a spill or leak.
- (g) Liability Insurance.** The Applicant shall provide proof of insurance for each WECS at all times for at least \$2,000,000 for liability, property damage, livestock damage, and future earnings loss. Applicant shall provide yearly proof of insurance to Village that confirms active coverage for the Applicant, Village, Pooled Parcels, and Unpooled Parcels. Aggregate policies are allowed if minimum coverage per WECS is satisfied and coverage is provided for every site where Applicant's equipment is located. In the event a public service such as police, fire, or rescue is required due to the operation, maintenance, or failure of a wind turbine, any cost incurred as a result of said event shall be the sole responsibility of the applicant and/or owner of the On-Site WECS.

**(D) Standards for Utility Scale Wind Energy Conversion System (Also Called Large Scale)**

**(1) Required Information**

- (a)** Diagram of wind turbine showing blade length and ground clearance
- (b)** Determination of No-Hazard from Ionia County Airport
- (c)** Engineering data concerning construction of the tower base;

- (i) Construction materials
  - (ii) Depth of the base
  - (iii) Analysis of impact on water table, nearby wells, and ground water
  - (iv) The Applicant shall provide certification with documentation (structural analysis) including calculations that the WECS and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.
  - (v) A copy of a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the proposed WECS site.
- (d) **Site Plan.** The Applicant shall submit a site plan in full compliance with this Ordinance. The Applicant shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards, as well as information regarding health, welfare and safety in areas including, but not limited to, noise, vibration, shadow flicker, and blade ice deposits. This information shall also address the potential for the WECS to structurally fail or collapse, and what results should be expected in such an event. The application for a WECS shall be reviewed in accordance with all applicable requirements in site plan review and special use requirements of this Ordinance. In addition to these requirements, site plans and supporting documents for WECS shall include the following additional information, as appropriate:
- (i) Documentation that noise emissions, construction code, tower, and safety requirements have been reviewed by the appropriate third-party professional and the submitted site plan is prepared to show compliance with these issues.
  - (ii) Proof of the applicant's public liability insurance.
  - (iii) A copy of that portion of all the applicant's Pooled Parcel lease(s) with the land owner(s) granting authority to install the WECS and/or Anemometer Tower; legal description of the property(ies), Lease Unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the Lease Unit Boundary.
  - (iv) An un-redacted safety manual from the turbine manufacturer and a statement from the applicant verifying that the WECS is or will be operated in compliance with all requirements therein.
  - (v) The phases, or parts of construction, with a construction schedule.
  - (vi) The project area boundaries, including all boundaries within pooled parcels.

- (vii) The location, height, and dimensions of all existing and proposed structures and fencing.
- (viii) Engineering data concerning construction of the tower base
- (ix) The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest Village or State maintained road.
- (x) A description of the routes to be used by construction and delivery vehicles and of any road improvements that shall be necessary in the Village to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the WECS.
- (xi) All new infrastructure above and below ground related to the project, including transmission line locations.
- (xii) A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- (xiii) Description of operations, including anticipated regular and unscheduled maintenance.

**(e) Required Studies**

- (i) **Flicker Study.** A shadow flicker study shall be required, and shall be submitted by the applicant with the application. The purpose of the shadow flicker study is to examine the duration and location of shadow flicker on unpooled parcels. The model study area shall include all land extending a minimum of 20 rotor diameters in all directions from a wind turbine generator. The model shall be calculated using the following minimum inputs: turbine locations, shadow flicker receptor locations, existing topography, rotor diameter and hub height, joint wind speed and direction distribution (wind rose table, and hours of sunshine (long term monthly references)). The model shall calculate the locations and durations of shadow flicker caused by the proposed wind energy conversion system within the study area, and the total number of hours anticipated per year of shadow flicker. The application shall include estimates for shadow flicker to the nearest tenth of an hour, on a daily basis for each receptor. Assumptions regarding the percentage of time that shadow flicker is likely to occur shall be clearly explained and subject to approval of the Planning and Zoning Commission. The shadow flicker study shall include a map that indicates the extent of shadow flicker, pooled and unpooled parcels, public roads and all potential shadow flicker receptors.
  - 1) **Post-Construction Flicker Mitigation.** Should an unpooled parcel receive shadow flicker that was not indicated in the shadow flicker study, the owner of the wind energy conversion system may be required to cease operations of WECS and perform an additional flicker study and mitigation plan for the affected property and submit it to the Zoning Administrator for review prior to implementing mitigation measures.
- (ii) **Avian Study Required.**



- 1) At the time of application, the Applicant shall submit a wildlife study, completed by a qualified professional, to assess the potential impacts of the proposed wind energy conversion system upon bird and bat species. The wildlife study shall include the results of an environmental review request from the Michigan Department of Natural Resources, a literature review for threatened and endangered species and for birds and bats, the results of supplemental environmental surveys conducted by the applicant to provide information related to critical flyways, migratory routes, feeding areas, and/or nesting sites for protected species. It is the intent of this ordinance to reasonably consider and protect avian and bat species, not just those that are endangered or threatened. The applicant must identify any plans for post-construction monitoring and studies. The analysis shall also include an explanation of potential impacts and proposed mitigation plans, if necessary.
- 2) A qualified, third party chosen at the discretion of the Planning and Zoning Commission may be required to review the applicant's wildlife studies and/or environmental surveys may be required by the Planning and Zoning Commission.
- 3) The Planning and Zoning Commission may require a post-construction bird and bat mortality study completed by a third-party professional selected by the Planning and Zoning Commission. The timing of such a study shall be specified as a condition of the special land use.
- 4) A wind development application shall adhere to and comply with all guidelines and best practice recommendations made by the United States Fish and Wildlife Service (USFWS) regarding the siting, design, and operation of a wind energy conversion system to protect the natural resources of watersheds, wetlands and wildlife. The application shall include documentation of all studies, consultations, and recommendations made by or with the USFWS regarding the placement of wind turbine generators and operation of the wind energy conversion system.
- 5) The compatibility of the tower structure with the rotors and other components of the conversion systems shall be certified by a certified, registered engineer and by the authorized factory representative. In addition, the lowest point of the blade shall be a minimum of one hundred (100) feet above the ground.

**(iii) Preconstruction Noise Background Survey.** The applicant shall provide a noise background study at the time of application which indicates Leq, L10, and L90 ten-minute sound levels using A-weighting. For applications submitted after the effective date of this ordinance, the applicant shall submit proposed measurement locations to the Planning and Zoning Commission in advance of the survey for review and approval. Measurement procedures should generally follow the most recent versions of ANSI S12.18, and ANSI S12.9, Part 3 (with or without an observer present) guidelines. The selected test locations shall be described with GPS coordinates or some other level of detail such that the location can be used by others to repeat or verify sound measurements. Measurements shall be taken using an ANSI or IEC Type 1 Precision Integrating Sound Level Meter. The study must include a minimum of a four day (96-hour) testing period, including one Sunday, and produce data that includes a variety of ground and hub height wind speeds, at low (between 4 and 7 m/s) medium (7-10 m/s) and high (10m/s or more and/or capable of producing maximum power). The noise background study shall report for the period of monitoring topography, temperature, weather patterns, sources of ambient sound, and prevailing wind direction. The study shall include a map showing proposed wind turbine locations, pooled and unpooled parcels, and all occupied buildings.

**(iv) Sound Modeling Study.**

- 1) A predictive sound study of turbine noise shall accompany an application to verify that ordinance requirements can be met for dBA sound levels. Due to the statistical uncertainty of sound propagation models, environmental factors, and variable wind shear, sound modeling shall demonstrate that the wind energy conversion system will not exceed 35 dBA (10 min- LAeq) at the property line of any adjacent parcel. The modeling shall also demonstrate that the system will not exceed 45 dBA (LMax) at the property line of any adjacent parcel.
- 2) The applicant shall present the maximum Sound Power Level of the proposed turbine on both the dBA and dBC scales, and will calculate the difference [dBC-dBA] in decibels and compare it to the 20 decibel threshold in IEC 61400-11:2002+A1:2006, as an indicator of whether the turbine is likely to produce low-frequency noise that could create annoyance.
- 3) For assessing potential low frequency or vibration problems, refer to Section C.2.(g).
- 4) The sound modeling must follow the most recent version of International Standard, ISO 9613-2 "Acoustics-Attenuation of sound during propagation outdoors – Part 2: General method of calculation.
- 5) The sound modeling study shall use wind turbine sound power levels determined according to the most recent version of IEC 61400 – Part 11. The model of wind turbine generator proposed for the development shall not be tonal as determined by the most recent version of IEC 61400- Part 11.

- 6) The sound study shall include a map with sound contour lines for dBA sound emitted from the proposed wind energy conversion system. The study shall include a map (at 1:200 or better) showing sound contours at 5 dBA intervals, proposed wind turbine locations, pooled and unpooled parcels, and all occupied buildings. The predicted values must include cumulative sound levels created by all existing, approved, and proposed turbines. The sound study and accompanying map shall extend out to the 30-dBA sound contour line or 1 mile from a wind turbine generator, whichever is closer to the nearest wind turbine.
  - 7) The applicant shall identify each operational component of a wind turbine (other than the spinning blades) that will produce a sound that will be audible at the property line of an unpooled parcel.
  - 8) For each operational component that is identified, the applicant shall also provide:
    - a) The maximum instantaneous volume of the noise, in dBA, that will be received at the property line of an unpooled parcel, along with the modeling results to support that projection.
    - b) The characteristics of the noise, in terms of frequency of occurrence, when it will occur, duration, tonal quality, and range of volume. In addition to a written description, the applicant shall provide a recording or video of the various operational sounds or some other form of demonstration.
    - c) The measures, if any, the applicant is proposing to implement in order to mitigate the sound.
  - 9) The Planning and Zoning Commission may require the applicant to implement measures to mitigate and/or eliminate an operational sound (other than the spinning blades).
  - 10) Failure to submit information on all predictable, audible operational sounds of the wind turbines (such as yawing, cooling fans, hydraulics or cooling systems, etc.) may result in a violation of the special land use.
- (v) Post Construction Sound Survey**
- 1) Documentation of sound pressure level measurements shall be provided to the Zoning Administrator by a third-party qualified professional selected by the Planning and Zoning Commission and at the expense of the wind energy conversion system owner within 6 months of the commencement of the operation of the project. The post construction study shall be performed at the same locations as the pre-construction study unless additional or alternative locations are required by the Planning and Zoning Commission. The study should generally follow the procedures in the most recent versions of ANSI S12.9 Part 3 (with an observer present) and ANSI S12.18. All sound pressure levels shall be measured with instruments that meet ANSI or IEC Type 1 Precision integrating sound level meter performance specifications. In addition to measuring A-weighted sound levels, at least one monitoring location shall collect one-third octave band data down to 1 Hertz. As part of the study, octave band data must be measured as addressed in Section C.2.(g).

- 2) **Testing Procedures.** The post construction test shall verify that equivalent sound level limits in dBA are in compliance with the standards of this ordinance. The compliance test procedure will use an alternating series of turbine-on and turbine-off 10-minute LAeq measurements when wind speeds are fairly constant. The testing shall result in a minimum of ten (10) ten-minute LAeq data points per testing location obtained when the wind energy conversion system is operating at maximum sound power. Measured levels (turbine-on and turbine-off) for similar hub height wind speeds (within 1.5 m/s) will be compared to determine the sound level from only the wind turbines. The firm conducting the study shall collect LA90 and LA10 data. The wind energy conversion system owner shall assist the Village and third-party qualified professional by turning off selected wind turbines and providing necessary logistical support for testing on-demand. During a testing period identified by the Village, the wind energy conversion system owner shall park or pause wind turbine operations for an "off" period within two hours of a request made by the third-party professional. During the on-off testing all wind turbine operations will be parked or paused within 8,000 feet of a test location to eliminate the background noise contribution from the wind energy conversion system.
- 3) **Test Locations.** The test locations shall take into consideration noise complaints on file with the Village and may require additional study locations as deemed necessary by the Planning and Zoning Commission. The firm conducting the post-construction sound survey shall consult with the Planning and Zoning Commission, or their representative, prior to conducting the study to agree on the compliance testing locations. The study shall delineate pooled and unpooled parcels as well as occupied buildings.
- 4) **Low Frequency Sound and/or Vibration.** WECS shall not create vibrations that are detectable by humans on unpooled parcels. The applicant shall provide acoustic modeling at the time of application to assess potential low frequency or vibration problems on both unpooled and pooled parcels. The modeling study of low frequency sound and vibration shall demonstrate meeting: (1) ANSI S12.9/Part 4 Annex D threshold for minimal annoyance and beginning of rattles from outdoor low frequency noise and (2) the ANSI S12.2 sound level limits for moderately perceptible vibration and rattles within homes as modified to equivalent outdoor sound limits in Table 2 of the March-April, 2011 Noise Control Eng. Journal article by O'Neal, et al.. The ANSI S12.2 interior sound level limits for low frequency sound and perceptible vibration within homes, as modified to equivalent outdoor sound limits in Table 2 of the March-April, 2011 Noise Control Eng. Journal article by O'Neal, et al. shall be utilized to determine if outdoor sound levels will create perceptible vibration or low frequency problems indoors. If the post-construction sound survey outdoor octave band sound level measurements reveal that low frequency sound from wind turbines at the exterior of an unpooled, occupied or non-occupied building may create a vibration or low frequency noise problem, then further studies should be conducted to assess the problem. The further studies shall use the above referenced standards (ANSI S12.2 and ANSI S12.9/Part 4 Annex D). If the further study indicates that the low frequency sound/vibration exceeds acceptable levels, mitigation may be required by the Planning and Zoning Commission. Mitigation may include operational changes to the turbine, modifications to the subject building or buildings, or other measures as determined by the Planning and Zoning Commission.

- 5) **Tonality:** If a tone is observed from a turbine during the post construction sound survey or at a later date (such as due to a malfunctioning gearbox), a defined assessment of the level of tonality shall be conducted utilizing an accepted international standard, such as ISO 1996-2, by an independent, third party sound consultant selected by the Planning and Zoning Commission at the expense of the wind energy conversion system owner. A tonal audibility value adjustment (from 0 to 6 dB) will be added to the measured 10-minute LAeq sound level at the testing location of either a pooled or unpooled parcel in accordance with Section D.3.(h).1.d. For tonality arising from a mechanical failure or lack of maintenance, See Subsection D.8.f.
  - 6) The Planning and Zoning Commission retains the authority to require that all noise surveys and reports, both pre-construction and post-construction, be conducted by experts/consulting firm chosen at the Planning and Zoning Commissions discretion and paid for by the wind developer.
  - 7) **Non-Compliance.** Should the sound study indicate a non-compliant measurement, the owner of the wind energy conversion system will be required to obtain compliance through mitigation or other measures.
- (vi) **Wind Rose Chart.** The applicant shall submit a Wind Rose Chart at the time of the application. This is a chart or graph that describes 12 months (or more) of wind data collected from the proposed project area. This graph or chart will demonstrate direction, duration, and intensity of the wind. These data will be for each height of wind sensor mounted on the meteorological tower.

## (2) Regulations

- (a) **Height.** Utility-scale WECS shall have a maximum height of 500 feet or less; except where state and federal regulations may require a lesser height; or where, as a condition of special use approval, the Planning and Zoning Commission requires a lesser height. Height is measured from the average grade at the base of the tower to the highest point of WECS when a blade is in its vertical orientation.
- (b) **Setbacks:** No wind turbine generator shall be located such that the distance between the nearest point of the blade (while in rotation) and the nearest boundary line of any individual land parcel comprising the pooled parcel is less than 110% of the height of the wind turbine generator, as measured from the ground at the center of the base of the tower to the highest reach of the blade; provided, however, that the Planning and Zoning Commission may approve a lesser setback distance if written consents for such lesser distance are obtained from the owners of all lands located, in whole or in part, within one rotor-diameter of the wind turbine generator measured from the center of the base of the wind turbine generator. In determining whether such lesser setback may be approved, the Planning and Zoning Commission shall consider the technical needs of the applicant, the feasibility of alternate locations, the nature and proximity of nearby buildings, structures, and public roads, for the potential for adverse impacts that noise, shadow flicker, and other features may have on adjacent land uses.
- (c) **Lot Size.** The size of the lot(s) to be used for a utility-scale WECS shall be sufficient to comply with all setback requirements.
- (d) **Minimum Ground Clearance.** The minimum vertical blade tip clearance shall be a minimum of fifty (50) feet of clearance over and above any structure and a minimum of 100 feet of clearance above the ground.
- (e) **Aviation Safety.**

- (i) All WECS shall fully comply with the Ionia County Memorial Joint Airport Authority Ordinance.
- (ii) **Aviation Safety.** A Determination of No Hazard to aviation safety from the Federal Aviation Authority must be submitted, and, if applicable, a Tall Structures Permit from the Michigan Department of Transportation, must be submitted.

**(f) Noise Emission:**

- (i) No WECS shall generate or permit to be generated audible noise that exceeds 45 dBA ( $L_{max}$ ) or 55 dBC ( $L_{max}$ ) (dBC to dBA ratio of 10 dB per ANSI standard S12.9 Part 4 Annex D) for any duration, as measured at the property line.
- (ii) No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any acoustic, vibratory, or barometric oscillations in the frequency range of 0.1 to 1 Hz that is detectable at any time and for any duration by confirmed human sensation or exceeds a sound pressure level from 0.1 to 20 Hz of 50 dB(unweighted) re 20uPA or exceeds an RMS acceleration level of 50 dB(unweighted) re 1 micro-g by instrumentation at a landowner's property line or at any point within a landowner's property.
- (iii) No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any vibration in the low-frequency range of 0.1 to 20 Hz, including the 1, 2, 4, 8, and 16 Hertz octave bands that is perceivable by human sensation or exceeds an rms acceleration level of 50 dB(unweighted) re 1 micro-g at any time and for any duration either due to impulsive or periodic excitation of structure or any other mechanism at a landowner's property line or at any point within landowner's property.
- (iv) A noise level measurement made in accordance with methods in Section D.3.g. that is higher than 45 dBA ( $L_{max}$ ) or 55 dBC ( $L_{max}$ ) adjusted for the penalty assessed for a tonal noise condition, shall constitute prima facie evidence of a nuisance.
- (v) An acoustic, vibratory or barometric measurement documenting oscillations associated to commercial or industrial permitted facilities with levels exceeding the noise limits shall constitute prima facie evidence of a nuisance.
- (vi) All commercial and industrial activity shall comply with limits and restrictions anywhere at any time on another property.
- (vii) Leq 1-sec shall be used for all measurements and modeling.
- (viii) **Noise Measurement and Compliance**

- 1) Post construction validation and compliance testing shall include a variety of ground and hub height wind speeds, at low (between 6-9mph) medium (between 9-22mph) and high (greater than 22mph). SCADA data shall be provided in the format determined by Village, Village licensed engineers, or Village professional acousticians. Compliance noise measurements are the financial responsibility of the WECS owner of the facility and shall be independently performed by a qualified professional acoustician approved by the Matteson Village Council or their designated agent. Compliance noise measurements shall not exceed the stipulated noise limits and shall assess for and apply tonal noise penalties when warranted.
- 2) **Quality:** Measurements shall be attended. All noise measurements shall (must) exclude contributions from wind on microphone, tree/leaf rustle, flowing water, and natural sounds such as tree frogs and insects. The latter two can be excluded by calculating the dBA noise level by excluding octave band measurements above the 1000 Hz band as in ANSI S12.100 3.11. The ANS-weighted sound level is obtained by eliminating values for octave bands above 1000 Hz, or one-third octave bands above 1250 Hz, and A-weighting and summing the remaining lower frequency bands. The wind velocity at the sound measurement microphone shall not exceed 3 m/s (7 mph, maximum) during measurements. A 7-inch or larger diameter windscreen shall be used. Instrumentation shall have an overall internal noise floor that is at least 5 dB lower than what is being measured. During testing of elevated sources including, but not limited to, wind turbines, the atmospheric profile shall be Pasquill Stability Class E or F preferred, Class D as alternate.
- 3) **Noise Level:** Noise measurements shall be conducted consistent with ANSI S12.18 Procedures for Outdoor Measurement of Sound Pressure Level and ANSI S12.9 Part3 (Quantities and Procedures for Description and Measurement of Environmental Sound – Part 3: Short-term Measurements with an Observer Present), using Type 1 meter, A-weighting, Fast Response.
  - a) Sound Level Limits.
    - i) Between the hours of 7 a.m. to 10 p.m., any single 10-minute LAeq A-weighted equivalent sound level measured at the property line of an unpooled (single) parcel (as defined in Section B hereof) upon which there is an occupied building or dwelling shall not exceed 35 dBA or 5 dBA over ambient noise limit, whichever is lower. Between the hours of 10 p.m. to 7 a.m., any single 10-minute LAeq A-weighted equivalent sound level measured at the property line of an unpooled (single) parcel (as defined in Section B hereof) upon which there is an occupied building or dwelling shall not exceed 30 dBA or 5 dBA over ambient noise limit, whichever is lower.

- ii) On a pooled parcel, the ten-minute LAeq sound level measured at the wall of an occupied building nearest to the wind turbine or turbines shall not exceed 45 dBA.
  - iii) These sound level limits are to be evaluated using the A-weighted equivalent sound level (LAeq) descriptor. The LAeq is measured using a ten-minute time interval.
  - iv) In the event audible noise due to wind energy conversion system operations contains a tone, such as from a gearbox or generator, the standards for audible noise set forth in Section D.3.(h).1.a and D.3.(h).1.b of this subsection shall be reduced from 0 to 6 dBA depending on the severity of the tone as determined by ISO 1996-2, see Sections D.3.a.iv. and D.6.f.
- 4) **Tonal Noise:** Tonal noise shall be assessed using unweighted (linear) 1/3 octave band noise measurements with time-series, level-versus-time data acquisition. A measurement shall constitute prima facie evidence of a tonal noise condition if at any time (single sample or time interval) the noise spectrum of the noise source under investigation shows a 1/3 octave band exceeding the average of the two adjacent bands for by 15 dB in low one-third octave bands (10–125 Hz), 8 dB in middle-frequency bands (160–400 Hz), or 5 dB in high frequency bands (500–10,000 Hz).
- 5) **Sample Metric and Rate:** Noise level measurements for essentially continuous non-time varying noise sources shall be acquired using the Leq(Fast) metric at a sample rate of 1-per-second. For fluctuating or modulating noise sources including, but not limited to, wind turbines, a 10-per-second sample rate or faster shall be used. These sample rates shall apply to dBA, dBC and unweighted 1/3 octave band measurements.
- 6) **Reporting:** Measurements of time-varying dBA and dBC noise levels and 1/3 octave band levels shall be reported with time-series level-versus-time graphs and tables. Graphs shall show the sound levels graphed as level-vs-time over a period of time sufficient to characterize the noise signature of the noise source being measured. For 1-per-second sampling, a 5-minute-or-longer graph shall be produced. For 10-per-second sampling, a 30-second-or-longer graph shall be produced. Reporting shall identify, and graphs shall be clearly notated, identifying what was heard and when the noise source is dominating the measurement. Reporting shall furnish all noise data and information on weather conditions and, Pasquill Class occurring during testing.
- (ix) **Construction Codes, Towers, & Interconnection Standards.** Utility-scale WECS including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility-scale WECS including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, the Ionia County Memorial Joint Airport Authority Ordinance, and other applicable local and state regulations. An interconnected utility-scale WECS shall comply with Michigan Public Service Commission (MPSC) and Federal Energy Regulatory Commission (FERC) standards. Off-grid systems are exempt from MPSC and FERC requirements. Utility-scale WECS shall comply with the following construction requirements:



- 1) Tubular towers are required for WECS.
- 2) The base of the wind turbine must be constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition to a depth of 4 feet.
- 3) "Up wind turbines" are required.
- 4) Constant velocity turbines are preferred. Variable speed turbines must submit additional data concerning noise when their revolutions per minute exceed 25 rpms.
- 5) Visual appearance shall be limited by the use of paint color and finishes that minimize visibility and reflectivity and create a consistent appearance among turbines and turbine components.
- 6) Color shall be RAL 9001, or similar muted soft white or gray.
- 7) At the time of application, a paint sample shall be provided for all visible turbine components to demonstrate consistent appearance in paint finish and color.
- 8) Coatings shall be defined according to ISO 2813:2014 (or most recent version utilized at the time of turbine production) at a viewing angle of 60 degrees with a gloss rating of less than or equal to 30 gloss units.
- 9) All turbine components shall meet a gloss rating specification of equal to or less than 30 gloss units throughout special land use or shall be recoated at the owner's expense within 180 days of a determination of non-compliance.
- 10) The Planning and Zoning Commission, or designated staff, shall ensure verification of paint finishes and gloss rating prior to the erection of the turbine components, at the expense of the Wind Energy Conversion System (WES) owner, through a third-party qualified tester using ISO 2813:2014 (or most recent version utilized at the time of turbine production) to demonstrate compliance.
- 11) If the Planning and Zoning Commission determines that additional testing of the paint finish is needed at any point during the duration of the special land use to confirm compliance with the 30-gloss unit maximum, testing shall be completed, at the expense of the WECS owner, by a third-party qualified tester selected by the Planning and Zoning Commission. Testing shall follow ISO 2813:2014 (or most recent version) to demonstrate compliance.
- 12) No advertising of any kind shall be allowed on the wind turbine.
- 13) The electrical wires used to connect the turbine tower to its step-up transformer shall be installed at a depth of 48 inches or more below ground.
- 14) The certified registered engineer and authorized factory representative shall certify that the construction and installation of the conversion system meets or exceeds the manufacturer's construction and installation standards.

(x) **Safety.** The utility-scale WECS shall meet the following safety requirements:

- 1) The utility-scale WECS shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
- 2) All energy collection system wiring shall comply with all applicable safety and stray voltage standards.
- 3)
- 4) Each utility-scale WEC shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the braking system.
- 5) A copy of the un-redacted Safety Manual from the turbine manufacturer shall be submitted to the Village and the turbine must comply with all requirements therein.
- 6) All towers or poles must be unclimbable by design or protected by anti-climbing devices such as:
  - a) Fences with locking portals at least six (6) feet high
  - b) Anti-climbing devices twelve (12) feet from base of pole

(xi) **Shadow Flicker.** Utility-scale WECS shall produce no shadow flicker on unpooled parcels. Measures to mitigate the effects of shadow flicker on adjacent properties, including pooled parcels such as programming the WECS to stop rotating during times when shadow crosses occupied structures, may be required by the Village depending on the location and duration of the shadow flicker impact.

- 1) **Mitigation and Mitigation Plan.** A shadow flicker detection/abatement system is required on each wind turbine generator. An equivalent type of system may be used, but only with prior approval by the Planning and Zoning Commission. Shadow detection systems must be kept in good working order for the entire duration of the special land use. Shadow flicker mitigation measures for each receptor modeled to receive flicker shall be described in a mitigation plan and submitted with the application. Flicker mitigation measures may include but are not limited to, turbine siting changes and flicker detection/abatement system operation. If landscaping is used as a mitigation procedure, the planting of mature trees shall be required. The Planning and Zoning Commission may require a performance guarantee or other mitigation measures, to assure the long-term viability and effectiveness of the mitigation.

- (xii) **Fluid Containment.** Each utility-scale WECS shall include both an internal and external fluid containment barrier located either within the nacelle, or at the base of the nacelle in the event of a spill or leak.
- (xiii) **Vibrations.** Wind turbines shall not create vibrations that are detectable by humans on unpooled properties.
- (xiv) **Substations and Accessory Buildings.** Structures related to a WECS shall be subject to the dimensional and locational standards of accessory structures in the zoning district. However, WECS and structures associated with a WECS shall not count towards the maximum number of accessory structures on a given lot.
- (xv) **Inspection.** The Village shall have the right upon issuing any WECS or wind energy facility special use permit to inspect the premises on which each WECS is located at any reasonable time. The Village may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator of the WECS.
- (xvi) **Signage:** Each WECS and Testing Facility shall have one sign per turbine, or tower, located at the roadside and one sign attached to base of each WECS, easily visible throughout four seasons. Signs shall be two square feet in area and be placed at the road right of way. Signs shall be the same and shall uniquely identify each WECS. Additional signage on and around the tower is recommended. The sign shall contain at least the following:
- 1) Warning high voltage.
  - 2) The sign shall have at a minimum six (6) inch letters with 3/4-inch stroke.
  - 3) This sign shall include a 24-hour emergency phone number.
  - 4) Pooled Parcel Land owner's name, WECS owner's name, and operator's name.
  - 5) Emergency telephone numbers and web address. (list more than one number).
  - 6) If WECS uses fencing, place signs on the perimeter fence at fence entrance door.
  - 7) Unique identification such as address of WECS. If more than one WECS on access drive, units shall have further identification such that first responders can positively identify.
- (xvii) **Communication Interference:** Each WECS shall be designed, constructed and operated so as not to cause radio and television or other communication interference. In the event that verified interference is experienced and confirmed by a licensed engineer, the Applicant must produce confirmation that said interference had been resolved to residents' satisfaction within ninety (90) days of receipt of the complaint. Any such complaints shall follow the process stated in Subsection D.9.

- (xviii) **Braking:** Each WECS shall be equipped with a braking, or equivalent device, capable of stopping the WECS operation in high winds with or without SCADA control. Braking system shall be effective during complete GRID power failure where WECS are unable to communicate with SCADA control or receive power.
- (xix) **Applicant Compliance:** The WECS and related equipment shall comply with any and all State, Federal, County and Village requirements, and obtain all necessary permits from the FAA, Michigan Department of Transportation, and/or any other Federal, State, Village, or other government authority prior to construction of any WECS.
- (xx) **Liability Insurance:** The current WECS owner and operator shall insure for liability for the WECS in an amount of \$2,000,000, without interruption until removed and to protect the current WECS owner and operator. In the event a public service such as police, fire, or rescue is required due to the operation, maintenance, or failure of a wind turbine, any cost incurred as a result of said event shall be the sole responsibility of the applicant and/or owner of the utility-scale WECS.
- (xxi) **Decommissioning:** To ensure proper removal of each WECS structure when it is abandoned or non-operational, application for a special land use permit shall include a proof of the financial security in effect before permit is approved. The security shall be in the form of a cash deposit. Additionally, security is based on each WECS and is to be backed by owner assets, operator assets, parent company assets, and leaseholder, or Pooled Parcel, assets (liquid or fixed such as cash equivalents, land, equipment, buildings, etc.) approved by the Planning and Zoning Commission. a) The amount of each WECS security guarantee, shall be the average of at least two independent (applicant) demolition (removal) quotes obtained by the Planning and Zoning Commission and approved by the Village Council. If the quantity of quotes obtained is two (2), the formula should be (quote 1 + quote 2) divided by two (2). The security guarantee shall be a cash deposit of no less than 150% of the cost for the first turbine, 120% of the cost for the second turbine and 100% of the cost for each additional WECS thereafter. The security guarantee shall be no less than one-million-dollar cash deposit with (150% for the first turbine, 120% for the second turbine, 100% for each additional turbine) per WECS. Quotes shall be based on individual WECS removal and shall not group multiple WECS simultaneous removals together. Quotes shall be ordered and obtained by the Village from established demolitions companies. Quotes shall not include salvage values. The cash deposit shall be updated every two (2) years at the rate of 1.5 times CPI (consumer price index) for each year. b) Such financial guarantee shall be deposited with the Village Treasurer after a special use has been approved but before construction operations begin on the WECS project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this ordinance, and shall subject the Applicant to all available remedies to the Village, including enforcement action, fines, revocation of the special use approval and WECS removal. The Applicant shall be responsible for the payment of all attorney fees and other costs incurred by the Village in the event that the structure is not voluntarily removed and the Village has to enforce removal. d) The Applicant/Owner and Operator shall execute any and all document (as provided or approved by the Village), sufficient to provide the Village with a perfected security interest in monies deposited with the Village for the purpose of decommissioning any wind energy conversion system.

**(xxii) Transfer or Sale.** In the event of a transfer or sale of the WECS, the Village shall be notified and the special land use permit may be amended administratively by the Village Council.

- 1) In the event of an ownership change the current owner shall present at a meeting of the Village Council a report and information regarding the following:
  - a) The current condition of the WECS Tower
  - b) Description and introduction of the new owner
  - c) Any changes to ongoing maintenance of the WECS
- 2) Any proposed changes to the operating procedure or approved site plan shall be amended and resubmitted for Village review according to the procedures for all WECS as outlined herein, including a public hearing.
- 3) Upon transfer or sale, the cash bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

**(xxiii) Safety Manual:** The Applicant must provide an unredacted copy of the manufacturer's safety manual for each model of turbine without distribution restraints to be kept at the Village Hall and other locations deemed necessary by Planning and Zoning Commission or local first responders. The Manual should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during WECS failure, processes in emergencies, etc.

**(xxiv) Operational, Maintenance, and Issue Resolution:** Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the Applicant shall take expeditious action to correct the situation, including WECS removal. The Applicant shall keep a maintenance log on each WECS and must provide complete log to the Village within thirty (30) days of request. To assure compliance with this requirement, an annual audit of maintenance records, conducted by a qualified third-party maintenance expert acceptable to the Village, shall be completed at the expense of the owner/operator of the turbine, and a copy of this report provided as specified by the Village.

- 1) WECS must be maintained and kept in operational working order or shall be removed by the owner of the wind energy conversion system. Any wind energy conversion system, or part of a wind energy conversion system such as a wind turbine generator, that has not produced electrical energy for 6 consecutive months shall be deemed to be abandoned; provided, however, that the owner or operator of the wind turbine may apply to the Planning and Zoning Commission, not less than 60 days prior to the expiration of said 6-month period, for one additional extension of up to six months upon establishing, to the satisfaction of the Planning and Zoning Commission, that the lack of production was caused by reasons beyond the control of the owner or operator. In determining whether such abandonment has occurred, the Planning and Zoning Commission or Village Zoning Administrator may request, and the operator, system owner, or property owner shall provide written documentation accurately indicating the amount of electrical energy produced by the wind energy conversion system during said 6-month period. It shall be the obligation of the wind energy conversion system owner to remove the abandoned wind energy conversion system.
- 2) An escrow account shall be set up when the applicant applies for a Special Use Permit for a WECS and WECS Testing Facilities to cover permitting costs. The monetary amount filed by the Applicant with the Village shall be in an amount estimated by the Village Council to cover all reasonable costs and expenses associated with the special use zoning review and approval process, which costs can include, but are not limited to, fees of the Village Attorney, Village Planner, and Village Engineer, as well as any reports or studies which the Village anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the Village may require that the Applicant place additional monies into the Village escrow should the existing escrow amount filed by the Applicant prove insufficient. If the escrow account needs replenishing and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the Applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the Applicant within ninety (90) days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The Village shall hire qualified professionals for each and any of the technical fields associated with the Special Use Permit, such as, but not limited to, electrical, acoustics, environment, economics, wildlife, health, and land-use.
- 3) **Transfer or sale.** In the event of a transfer or sale of the WECS, the Village shall be notified and the special land use permit, may be amended administratively by the Village Council.

- a) Change in ownership alone shall be considered a minor amendment to the special land use and may be approved administratively without a public hearing.
  - b) Any proposed changes to the operating procedure or approved site plan shall be amended and resubmitted for Village review according to the procedures for all WECS as outlined herein, including a public hearing.
  - c) Upon transfer or sale, the cash bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new a performance bond or letter of credit, in an amount determined by the Planning and Zoning Commission to be sufficient to cover the entire cost of removal, shall be submitted by the applicant prior to the issuance of the special land use. To assist the Planning and Zoning Commission in determining the amount of the performance bond or letter of credit, the applicant may submit information regarding the estimated cost to remove a wind energy conversion system.
- 4) The WECS owner or operator shall provide the Zoning Administrator with a copy of the monthly maintenance inspections for WECS located on absentee landowner parcels.
  - 5) Applicant must provide Village with current copy of the un-redacted manufacturer's user manuals including safety manuals with permit application. Manufacturer's safety manuals will be made available for review upon request by any resident living within 2 miles of any Industrial Wind Turbine.
  - 6) If there is a mechanical failure resulting in, but not limited to, an abnormal sound emission, release of a pollutant, or a public safety hazard including blade throw, ice throw, fire or injury to any person or property, the Zoning Administrator shall be notified of the event the next day of business following the event. The applicant shall provide the Village at the time of application an operational procedure for this event, a mitigation strategy, and appropriate emergency contact information. A written report describing the failure and the owner's response to the failure shall be submitted to the Zoning Administrator within 10 business days of the event. Sound emitted from a wind turbine generator that is the result of a mechanical failure or lack of maintenance may not be subject to the complaint resolution procedure outlined in D.9. Emergency contact information and a turbine reference number shall be placed in an appropriate location near the site of the turbine, such as at the gate for the access road, so it can be viewed without trespassing on private property.
- (g) Complaint Resolution.** The purpose of this section is to provide the public with a mechanism to file a complaint with the wind energy conversion system owner and the Zoning Administrator and receive a timely response from the wind energy conversion system owner regarding alleged wind energy conversion system ordinance violations. The applicant shall submit procedures which it intends to implement for receiving, acting upon, and resolving complaints or allegations that the wind energy conversion system is not in compliance with this ordinance.
- (i)** Complaint resolution procedures must be presented at the time of application and must meet the approval of the Planning and Zoning Commission prior to approval of a special land use. Those procedures, at a minimum, shall:

- 1) Require the system owner to accept complaints regarding non-compliance with the ordinance from all property owners within the project boundary and up to one a two-mile radius of a wind turbine generator.
  - 2) Provide a telephone number and mailing address at which the operator can be contacted for purposes of submitting complaints or allegations of non-compliance.
  - 3) Require that all such complaints or allegations be submitted in writing.
  - 4) As a condition of the system owner acting on the complaint, require that a complainant allow the wind energy conversion system owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.
  - 5) Set forth information that must be included in the complaint or allegation.
  - 6) Require that a complaint is acknowledged in writing by the wind turbine owner to both the complainant and the Zoning Administrator within five (5) business days of receipt of said complaint.
  - 7) Set forth the number of days, not to exceed thirty (30), in which the operator shall investigate and resolve any and all complaints or allegations, either by way of correction or formal denial of non-compliance.
  - 8) Require the operator to advise the Zoning Administrator in writing of the resolution of any complaint or allegation of non-compliance within thirty (30) days of its receipt of the same.
- (ii) Any complaint not resolved within thirty (30) days shall result in a performance review by the Planning and Zoning Commission as described in Section D.12. Resolution or mitigation of a complaint that involves construction, landscaping, testing or other significant alteration/operational condition that is dependent on seasonal or other conditions may exceed thirty (30) days if approved by the Planning and Zoning Commission.
- (iii) For complaints not resolved within (30) days, the Planning and Zoning Commission may request punitive damages for the complainant(s) and a civil penalty for the Commission to vindicate the public interest.
- (iv) It shall be a violation of this ordinance to modify the approved complaint resolution procedures without the prior approval of the Planning and Zoning Commission.
- (h) **Non-Compliance with Standards:** The Village Council reserves the right to require WECS Applicant to shut down any WECS unit that does not meet ordinance requirements until such WECS unit meets ordinance requirements or is removed.
- (i) **Signal Interference.** Through the appropriate placement of wind turbine generators, the applicant shall design to eliminate any interference such as, but not limited to, internet (Wi-Fi or satellite), AM or FM radio, cell telephones (including cellular and landline), 911, satellite television, microwave, navigational, emergency systems, and digital television. Post-construction signal interference caused by the wind energy conversion system shall be mitigated by the wind energy conversion system owner at their expense.



- (i) An application shall include a Licensed Microwave Search and Worst-Case Fresnel Zone (WCFZ) analysis.
  - (ii) The application shall include an interference mitigation plan. The plan shall describe mitigation measures and procedures to eliminate interference from the wind energy conversion system. The plan shall address various forms of interference and corresponding mitigation measures employed before and after construction of the wind energy conversion system. The plan must include relevant maps and modeling showing all known television, internet, emergency services, radio broadcast, or other signal paths along with proposed wind turbine locations.
- (j) **Performance Review.** The Planning and Zoning Commission shall require a performance review of the special land use on a three-year basis or as it may be required. The three-year time period commences after the first turbine of the wind energy conversion system becomes operational. The Planning and Zoning Commission shall provide the performance review and the Village shall perform, where reasonably practicable, investigation regarding a complaint or other matter requiring a performance review. In its sole discretion, the Village may require the assistance of an independent third party due to the specialized nature of the complaint, conflicting evidence, or other condition. The reasonable cost of an independent third-party consultant shall be at the expense of the WECS owner. Failure to maintain compliance with this ordinance shall result in enforcement action which may include the termination of the special land use, or portions of the special land use. The Village will retain jurisdiction to modify, suspend or revoke all IWT licenses, should any violations occur.
- (i) To administer the provisions relating to the WECS, the Village may hire consultants and experts as are reasonably necessary in the sole discretion of the Village. The applicant shall pay the Village in advance for the costs of such consultants and experts. The Village may charge an annual fee to be determined by the Matteson Village Council and assess additional fees in order to execute its responsibilities related to a project. Any fees charged must be reasonable in light of efforts required.
  - (ii) The purpose of the performance review is to evaluate the status of:
    - 1) Compliance with Special Land Use. Compliance with the conditions set forth by the special land use, such as specific mitigation measures or operation procedures.
    - 2) Ownership Change. Changes in ownership or operation of the wind energy system. (Already addressed)
    - 3) Avian or Bat Mortality. A significant avian or bat mortality event that exceeds projected impacts described in the Wildlife Study as required in Section D.2.(e).3 of this ordinance.
    - 4) Other. Other matters as determined by the Planning and Zoning Commission.

- 5) Unresolved and/or repeated complaints. A complaint taking longer than thirty (30) days to resolve may require a performance review unless otherwise specified in the ordinance. If after the performance review and further investigation, the Planning and Zoning Commission verifies that alleged ordinance violations are the result of the operation or condition of the wind energy conversion system, the owner/operator shall eliminate the non-compliance by mitigation or other measures which may include temporary operational changes. The Planning and Zoning Commission shall establish the effective date of the mitigation measure based on the nature of the mitigation.
- 6) As a condition of the Planning and Zoning Commission conducting a performance review, the complainant shall be required to allow Village staff, the wind energy conversion system owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.
- 7) Actions taken by the Planning and Zoning Commission to terminate or modify the Special Land Use, portions of the Special Land Use, or the conditions of the Special Land Use shall require a public hearing and notification to the wind energy conversion system owner pursuant to the conditions of the original permit.

## **Section 6.46 Wireless Telecommunications**

(A) **Definition:** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

(B) **Standards:**

- (1) **New Facilities.** New wireless telecommunications facilities shall be permitted in all Zoning Districts, regardless of whether a new support structure (tower) will be constructed or not, subject to the following standards:
  - (a) Before constructing a new facility, the applicant must demonstrate that they cannot achieve the needed service improvement by co-locating at an existing facility.
    - (i) The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the Village, to demonstrate the needed service improvement and why co-location is not possible.
    - (ii) If an owner or operator of an existing tower refuses to allow a co-location, written evidence of the denial of the co-location request must be submitted to the Village, and must include the reason for the denial.

- (iii)** The proposed colocation will not do any of the following:
- 1) Increase the overall height of the wireless communications support structure by more than twenty (20) feet or ten percent (10%) of its original height, whichever is greater.
  - 2) Increase the width of wireless communications support structure by more than the minimum necessary to permit colocation.
  - 3) Increase the area of the existing equipment compound to greater than 2,500 sq. ft.
- (iv)** The proposed colocation complies with the terms and conditions of any previous final approval by the Planning and Zoning Commission.
- (b)** To the extent practical, all ground equipment associated with the facility must be enclosed within a locked building.
- (c)** Information must be submitted showing that the facility is in compliance with all applicable FCC regulations regarding radio frequency emissions.
- (d)** Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.
- (e)** Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior fence.
- (f)** If a new tower is to be constructed for the facility, it shall meet the following standards:
- (i)** The tower must be set back from all property lines by a distance equal to 1.5 times its height.
  - (ii)** Lighting on the tower shall be prohibited unless required by the Federal Aviation Administration.
  - (iii)** The tower must be a monopole design. Guyed and lattice towers are prohibited.
  - (iv)** No signage shall be placed upon the tower structure.
  - (v)** The tower must be the shortest possible height required to provide the service desired by the applicant. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the Village, to demonstrate the needed service improvement and why the requested height is necessary. The Village may request further information, including propagation maps, demonstrating the service at lower heights, in order to determine for itself whether the requested height is necessary.
  - (vi)** The base of the tower and all associated equipment must be surrounded by a locked, opaque screening fence meeting the standards of the zoning district that the tower is located within.
  - (vii)** The applicant must specify the number of co-location sites that will be available on the tower.

- (viii) A structural analysis, signed and sealed by a licensed engineer, must be submitted demonstrating that the proposed tower will be able to support all proposed antennae, including co-locations.
- (ix) The applicant must submit renderings or photo-sims of the proposed tower as viewed from the following locations:
  - 1) The nearest public roadway.
  - 2) The nearest residential use.
  - 3) Any other location requested by the Village from which the tower may potentially be visible.

**(2) Co-locations and Modifications to Existing Facilities:**

- (a) Co-locations and modifications to existing facilities shall not require Zoning Approval, except as described in Subsection b, below. The Zoning Administrator shall have the authority to approve all co-locations and modifications that meet the standards of this chapter.
- (b) Under the following circumstances, co-locations and modifications shall require Zoning Approval, regardless of the Zoning District they are located in. If Zoning Approval is required, the application must meet the requirements of Sections 1.a-e above.
  - (i) The applicant proposes to increase the height of an existing tower by more than 20 feet, or ten percent of its original height, whichever is greater.
  - (ii) The applicant proposes to increase the width of the tower by more than the minimum necessary for structural stability given existing and proposed antennae.
  - (iii) The applicant proposes to increase the ground-level compound to more than 2,500 square feet in area.

**(3) Timelines for Approval.** The Village will comply with all State and Federal requirements for approval timelines. As of the adoption of this Ordinance, those were as described in Subsections (a) and (b) below. In the event of changes to Federal or State law, this section shall be void and the laws in place at the time of application shall be followed.

- (a) For new facilities, the Village shall request all required information within 14 business days of the application being filed with the Building Department. The Village shall issue a decision on the Special Use within 90 days of the application being deemed complete by the Village.
- (b) For modifications and co-locations, the Village shall request all required information within 14 business days of the application being filed with the Building Department. The Zoning Administrator shall issue an administrative approval within 60 days of the application being deemed complete by the Village.

**(4) Abandonment and Removal.** All wireless facilities and support towers shall be removed by the property owner and/or owner of the tower if the facility is not used for telecommunications for a period of six months.

# Article 7 General Provisions

## Section 7.01 Accessory Buildings, Structures, and Uses

### (A) General Requirements.

- (1) **Timing of Construction.** No accessory building, structure, or use shall be constructed or established on a parcel unless there is a legally-established principal building, structure, or use being constructed or already established on the same parcel of land. A parcel may not be divided if such division would result in an accessory building, structure, or use on a parcel on which there is no principal building, structure or use.
- (2) **No Approval Required.** No Zoning Approval shall be required to construct an accessory structure. However, in the event of a verified complaint, the property owner shall alter, deconstruct, or reconstruct the accessory structure in question in order to come into compliance with this Ordinance.

(B) **Attached Accessory Buildings.** Unless otherwise specified in this Section, accessory buildings or structures which are attached to the principal building (such as an attached garage, breezeway, or workshop) shall be considered a part of the principal building for the purposes of determining conformance with area, setback, height, and bulk requirements.

### (C) Detached Accessory Buildings.

- (1) **Minimum Setback.** The Minimum Setback from all lot lines shall be 5 feet.
- (2) **Height.** Unless otherwise noted in this ordinance, the maximum height of an accessory building shall be 25 feet.

(D) **Non-Building Accessory Structures.** Non-building accessory structures (for example, tennis courts, swimming pools, antennas) shall be subject to the same regulations as accessory structures.

## Section 7.02 Exceptions

- (A) **Essential Services.** Essential Services, as defined in Article 20, shall be permitted as authorized and regulated by franchise agreements and federal, state, and local laws and ordinances, it being the intention of this ordinance to permit modification to regulations governing lot area, building or structure height, building or structure placement, and use of land in the Village when strict compliance with such regulations would not be practical or feasible.
- (B) **Voting Place.** The provisions of this Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a public election.

## Section 7.03 Home-Based Businesses

(A) **Requirements.** All home-based businesses shall be subject to the applicable requirements of the zoning district in which they are located. Home-based businesses which comply with those standards, plus all of the following standards shall be permitted by right in all zoning districts. A Zoning Permit shall be required prior to beginning operation of a home-based business. The Zoning Administrator shall issue the permit if the requirements are met.

- (1) Any business activity must be clearly incidental to the use of the dwelling as a residence.

- (2) No business activity shall be conducted in such a manner so as to cause the premises to excessively differ from a residential character by the emission of sounds, odors, or vibrations for greater than a total of eight (8) hours per day.
- (3) The delivery and pickup of goods and materials used and/or produced in the operation of a home-based business or home-based business shall be limited to the customary activity of the United States Postal Service and/or alternative private package services common to residential property in the area.
- (4) **Sign.** One non-illuminated sign, not more than 24 square feet in area, shall be allowed per residence to identify a home-based business. The permitted sign shall not be located in any road right-of-way and shall not obstruct the clear vision of drivers. No other sign shall be used on the premises to advertise a home-based business.

## **Section 7.04 Keeping of Animals**

(A) Except for Kennels as described in Section B, the keeping of animals shall not be regulated by this Zoning Ordinance.

(B) **Kennels.** The following regulations shall apply to Kennels as defined in Article 20.

- (1) **Commercial Boarding and/or Breeding Kennels.** Commercial (boarding/breeding) kennels shall be permitted subject to the following:
  - (a) **Operation.** Any such kennel shall be subject to all permit and operational requirements established by County and State regulatory agencies.
  - (b) **Maximum Number of Animals.** No boarding or breeding kennel shall house more than thirty (30) animals dogs.
  - (c) **Setbacks.**
    - (i) The minimum setback for fully-enclosed kennel buildings shall be fifty (50) feet from any property line and 100 feet from any residential structure on another parcel.
    - (ii) The minimum setback for outdoor runs, animal yards, or any other portion of the kennel where animals will be allowed outdoors shall be 150 feet from any property line and 200 feet from any residential structure on another parcel.
    - (iii) Animals shall not be kept in outdoor runs between the hours of 8:00 p.m. and 8:00 a.m.
  - (d) **Sound Control.** All animals shall be contained in a building which is fully soundproofed, using insulation, soundboards, and acoustic tile.
  - (e) **Odor Control.** Non-absorbent surfaces (such as sealed concrete or ceramic tile) shall be used throughout the kennel. Dog waste shall be power flushed or otherwise removed on a regular schedule, but no less than four (4) times daily.

## Section 7.05 Lighting

- (A) **Intent.** The regulations in this section are intended to require sufficient lighting for parking areas, walkways, driveways, building entrances, loading areas, and common areas to ensure the security of property and safety of persons. These regulations are also intended to prevent the adverse effects of inappropriate lighting, including glare, light trespass onto adjoining properties, light pollution and sky glow, and energy waste. These regulations are also intended to permit and encourage the use of lighting that promotes energy efficiency and conservation in the Village.
- (B) **Applicability:** Any person applying for site plan approval, either administrative or by the Planning and Zoning Commission, shall submit evidence that the proposed work will comply with this Section. All other activities shall be exempt from this section.
- (C) **Requirements.**
- (1) All outdoor lighting shall be downward facing at a 90 degree angle and shielded so as to conceal the source of the light. Uplighting of landscaping shall be exempt from this requirement, but must be shielded so it does not spill over onto adjacent lots.
  - (2) The minimum light level in any parking lot or walkway shall be 0.1 footcandles. Light emanating from public street lights shall be included in this calculation.
  - (3) Light trespass onto adjacent properties shall not exceed 0.5 foot-candles at the property line, measured at grade.
  - (4) **Height.** Lighting fixtures shall not exceed a height of twenty-five feet.

## Section 7.06 Streets, Roads, and Other Means of Access

- (A) **Intent.** Unimpeded, safe access to parcels of land throughout the Village is necessary to provide adequate police and fire protection, ambulance services, and other public services, and to otherwise promote and protect the health, safety, and welfare of the public. The standards and specifications set forth herein are determined to be the minimum standards and specifications necessary to meet the above stated intentions.
- (B) **Public Access Required / Minimum Frontage.** The front lot line of all lots shall abut onto a publicly dedicated road right-of-way or approved private road.
- (1) The required frontage on an approved road right-of-way shall be equal to or greater than the minimum lot width for the district in which the lot is located. On lots located on a curve or cul-de-sac, frontage shall be measured along a straight line between the two points where the side lot lines intersect the curved right-of-way line.
  - (2) Any parcel or lot existing at the time of the enactment of this Ordinance shall be exempt from these requirements as long as the parcel or lot has access provided by an existing lane, road, easement, or similar access route. Such parcel or lot shall not be considered non-conforming by reason of road frontage.

## Section 7.07 Temporary Dwellings and Structures

(A) **Temporary Dwellings.** A temporary dwelling is a trailer home, motor home, mobile home, or other temporary structure (that does not meet the definition of a building), whether of a fixed or movable nature, may be erected, moved, or used for dwelling purposes in the following circumstances. This subsection shall not apply to permanent buildings or structures. Temporary dwellings within campgrounds are not subject to this subsection. Temporary dwellings shall comply with the following requirements:

- (1) Under no circumstances shall a temporary dwelling, as described in this section, be established within another enclosed structure. Opening the windows and/or doors of the structure shall not result in the structure being deemed “unenclosed”.
- (2) A temporary dwelling shall be permitted:
  - (a) For up to 30 days with no permit or approval from the Village required.
  - (b) For up to 90 days upon the granting of a permit by the Zoning Administrator. The Zoning Permit application need not state any particular reason for the use of the temporary dwelling, but the application must clearly state the date on which the use of the temporary dwelling unit will cease, and the use of the temporary dwelling unit must cease on or before that date. If the temporary dwelling has already been on the property for a period of time prior to the application for the permit, that time shall count towards the 90 allowable days. No extensions shall be granted under this section. For a temporary dwelling in place for more than 90 days, an application must be submitted and approved under (c) or (d) below.
  - (c) For up to 365 days, upon the granting of a permit by the Zoning Administrator, during construction of a permanent dwelling on the site or during the repair of a permanent dwelling that was destroyed or damaged by a natural or manmade event, such as fire, flood, wind, or tornado, to the extent that it is uninhabitable. The application must also meet the following requirements in order to be approved.
    - (i) Clearly state the date that the use of the temporary dwelling will cease.
    - (ii) The location of the temporary dwelling shall meet all applicable setbacks for a principal structure in the district in which it is located.
    - (iii) The structure, vehicle, or other temporary dwelling must be designed to withstand the weather and remain suitable for human habitation for at least 365 days.
    - (iv) The application shall be accompanied by a drawing, showing the location of the proposed temporary dwelling and the proposed electrical supply, water supply, and toilet facilities. The water supply and sewage facilities serving the temporary dwelling shall conform to the minimum requirements set forth by the Ionia County Health Department.

(B) **General Requirements.** Temporary Buildings and structures shall comply with the following requirements:

- (1) **Temporary Structures Used for Nonresidential Purposes.** Temporary buildings for nonresidential use, including semi- trucks/trailers and concrete batch plants, shall be permitted when the intended use is by a contractor or builder in conjunction with a construction project. No zoning approval shall be required to use a temporary structure in these circumstances, but such temporary structures shall be removed immediately upon completion of the construction project and prior to a request for a Certificate of Occupancy for the project.

## **Section 7.08 Trash Removal and Collection**

The regulations in this section are intended to require sufficient screening of outdoor trash receptacles



and dumpsters, minimize adverse effects of trash storage, recycling, and disposal activities on adjacent properties and public rights-of-way, and encourage the development and use of appropriate screening structures and measures that complement and enhance the environment and character of the area and the Village as a whole. In addition, these standards provide a reasonable period for those existing dumpsters that do not comply with those standards to be brought into compliance.

- (A) **Applicability.** Any person applying for site plan approval, either administrative or by the Planning and Zoning Commission, shall submit evidence that the proposed work will comply with this Section. All other activities shall be exempt from this section.
- (B) **Location.**
  - (1) Dumpsters shall be permitted in the side or rear yard. No Dumpster shall extend closer to the front of the lot (both street frontages shall be considered "front" on corner lots) than any portion of the principal structure, except on trash collection days.
  - (2) The Dumpster shall not encroach on a required parking area and shall be clearly accessible to servicing vehicles.
- (C) **Concrete Pad.** Dumpsters shall be placed on a concrete pad. The concrete pad should extend a minimum of ten (10) feet in front of the Dumpster enclosure.
- (D) **Screening.** Dumpsters shall be screened from view from adjoining properties and public streets and thoroughfares.
  - (1) Dumpsters shall be screened on three sides with a permanent building, masonry wall, or wood fencing, not less than six (6) feet in height.
  - (2) The fourth side of the Dumpster screening shall be equipped with an opaque lockable gate that is constructed of wood or wood composite material. The gate shall be the same height as the enclosure around the other three (3) sides. When not in use, enclosure gates shall be closed and locked.
- (E) **Temporary Dumpsters.** Temporary Dumpsters on site for construction, demolition, or similar temporary purposes shall be permitted for the duration of the project provided that consistent progress is made on the project and the dumpster is necessary throughout.

## **Section 7.09 Outdoor Storage**

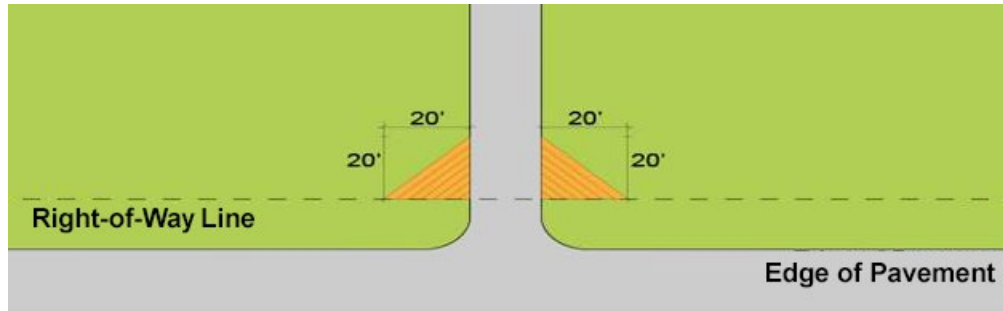
In all zoning districts, above-ground storage facilities for bulk oil, gasoline or chemicals shall be constructed in conformity with regulations of the State Fire Marshall, and shall be entirely enclosed within an opaque fence not less than 6 feet in height.

## **Section 7.10 Outdoor Seating**

- (A) **Private Property.** Outdoor seating for restaurants, bars, coffee shops, ice cream shops, and other businesses on private property shall be permitted in all circumstances and shall not be regulated by this Zoning Ordinance.
- (B) **Public Property.** Outdoor seating for restaurants, bars, coffee shops, ice cream shops, and other businesses on public property that is dedicated to public use (such as sidewalks or parks, but not schools or municipal buildings) shall be permitted provided that at least five feet of clear public, paved sidewalk are maintained to allow pedestrians to pass.

## Section 7.11 Fences

**Clear Corner Vision.** All fences in all zoning districts must allow clear corner vision for all street intersections and driveway entrances. Fences must be less than three feet tall within a triangle formed by two points, each 20 feet away from the intersection of the right-of-way line and the driveway, and the line connecting them.



# Article 8 Nonconformities

## Section 8.01 Intent

- (A) Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the Ordinance or amendment. Such nonconformities are not compatible with the current or intended use of land in the district in which they are located. Therefore, it is the intent of this Ordinance to permit such nonconformities to continue under certain conditions, but to discourage their expansion, enlargement, or extension. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.
- (B) The following table summarizes the nonconforming regulations contained in this Article:

Summary of Nonconformity Regulations	
Issue	Requirements
Period of non-use before nonconformity must cease*	<i>Nonconforming use of open land: 180 days</i> <i>Nonconforming use of structure or building: 12 months</i>
Establishment of new conforming use	Nonconforming use must cease
Change in ownership	No effect on nonconformity
Substitution of one nonconformity for another	Not permitted
Expansion of nonconforming use beyond existing building	Not permitted
Enlargement of nonconforming structure	See Section 8.04.A.2.B
Maintenance; structural repairs	Permitted
Renovation; modernization	Permitted
Rebuilding after catastrophe	Permitted

\* Non-use shall be defined as the disconnection of essential public utilities including electricity, water, or heating fuel, OR the substantial decrease in the use of such utilities to the point where they are no longer consistent with the use in question.

## Section 8.02 General Requirements

(A) The following regulations shall apply to all nonconforming uses, structures, and lots:

- (1) Continuation of Nonconforming Uses and Structures.** Any lawful nonconforming use existing on the effective date of this Ordinance or amendment thereto may be continued and shall not be considered to be in violation of this Ordinance, provided that (unless otherwise noted in this Article) the use shall not be enlarged or extended to occupy a greater area of land, nor moved in whole or in part to another portion of the lot.

Any lawful building or structure existing on the effective date of this Ordinance or amendment thereto may be continued and shall not be considered in violation of this Ordinance, provided that (unless otherwise noted in this Article) the building or structure involved shall not be structurally altered, enlarged, or moved unless such modifications conform to the provisions of this Ordinance for the district in which it is located.

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 an official charged with protecting the public safety, upon order of such official.

- (2) Purchase or Condemnation.** In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, Village of Muir may acquire, by purchase, condemnation or otherwise, private property for the purpose of removal of nonconforming uses pursuant to Section 208(3) of Public Act 110 of 2006, as amended.
- (3) Establishment of a Conforming Use or Structure.** In the event that a nonconforming principal use or structure is superseded by a conforming principal use or structure on a site, the nonconforming use or structure shall be immediately and permanently removed.
- (4) Change of Tenancy or Ownership.** In the event there is a change in tenancy, ownership, or management, an existing nonconforming use or structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.
- (5) Unlawful Nonconformities.** No building, structure, or use shall be permitted to continue in existence if it was unlawful at the time it was established.
- (6) Change of Location.** Should a nonconforming structure be moved to another parcel or to another location on the same parcel for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

## Section 8.03 Nonconforming Lots of Record

(A) Nonconforming lots of record are those lots of record, as defined in Article 20, existing and lawful prior to the effective date of this Ordinance or amendments thereto, which could not be created lawfully thereafter. The following regulations shall apply to any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this Ordinance or amendment thereto:

- (1) **Use of Nonconforming Lots.** Any nonconforming lot shall be used only for a use permitted in the district in which it is located. Any permitted use may be erected on any single lot of record in existence at the effective date of adoption or amendment thereto. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, provided that the lot can be developed as proposed without any significant adverse impact on surrounding properties or the public health, safety, and welfare.
- (2) **Area and Bulk Requirements.** No new division of any parcel shall be made which creates a non-conforming lot with area or frontage less than the area or bulk requirements of this Ordinance, for the zoning district in which it is situated.

## Section 8.04 Modification to Nonconforming Uses or Structures

(A) No nonconforming use or structure shall be enlarged, extended, or structurally altered, nor shall any nonconformity be changed to a different nonconformity which increases the intensity of use or nonconformity, except as permitted in this Section.

- (1) **Applicability.** The following regulations shall apply to any nonconforming use or structure, including:
  - (a) Nonconforming uses of open land.
  - (b) Nonconforming use of buildings designed for a conforming use.
  - (c) Nonconforming use of buildings specifically designed for the type of use that occupies them but not suitable for a conforming use.
  - (d) Buildings designed and used for a conforming use but not in conformance with area and bulk, parking, loading, or landscaping requirements.
  - (e) Nonconforming structures, such as fences and signs.
- (2) **Nonconforming Structures by Reason of Dimensional Inadequacies.** Where a lawful structure exists on the effective date of this Ordinance or amendments thereto which could not be built under its terms by reason of restrictions on area, height, yards, location on the lot, or other dimensional requirements, such a structure may be continued so long as it remains otherwise lawful, provided:
  - (a) Repairs, maintenance, and renovation necessary for health or safety reasons or to keep such a nonconforming structure in a sound condition may be made.
  - (b) A nonconforming structure may be enlarged, expanded, or altered, so long as the nonconforming characteristic of the structure is not enlarged upon, extended, or increased in its degree of nonconformance.

- (c)** Under no circumstances shall a non-conforming structure be rebuilt if the structure is determined to be located on more than one lot or parcel. The Village may require the owner/applicant to provide a current survey of the property.
- (d)** If such a nonconforming structure becomes physically unsafe and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it may be restored, repaired, or rebuilt.
- (e)** Any non-conforming structure that is voluntarily demolished or razed shall not be re-built unless in full compliance with the terms of this Ordinance.

# Article 9 Off-Street Parking and Loading Requirements

## Section 9.01 Off-Street Parking Requirements

(A) **No Minimum Parking Requirement:** There shall be no minimum number of parking spaces required on any lot within the Village.

(B) **Barrier-Free Parking Requirements.** Barrier-free parking shall comply with the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, the adopted Village Building Code, and the Federal Americans with Disabilities Act. Amendments or additional legislation at the State or Federal level may result in changes to this Section.

(a) **Dimensions of Barrier-Free Parking Spaces.** Each barrier-free parking space shall have no more than a nominal three percent (3%) grade and shall be not less than eight (8) feet in width and be adjacent to an access aisle not less than five (5) feet in width. Required van-accessible barrier-free spaces must be eight (8) feet in width and be adjacent to an access aisle not less than eight (8) feet in width.

(b) **Minimum Required Number of Barrier-Free Parking Spaces.** The number of barrier-free spaces required is as follows:

Total Number of Parking Spaces Provided in Lot	Minimum Number of Barrier-Free Spaces Required	Number of Van-Accessible Barrier-Free Spaces Required
Up to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	1
301 and Over	8	1

(C) **Layout and Construction.** Off-street parking facilities containing four (4) or more spaces shall be designed, constructed, and maintained in accordance with the following requirements:

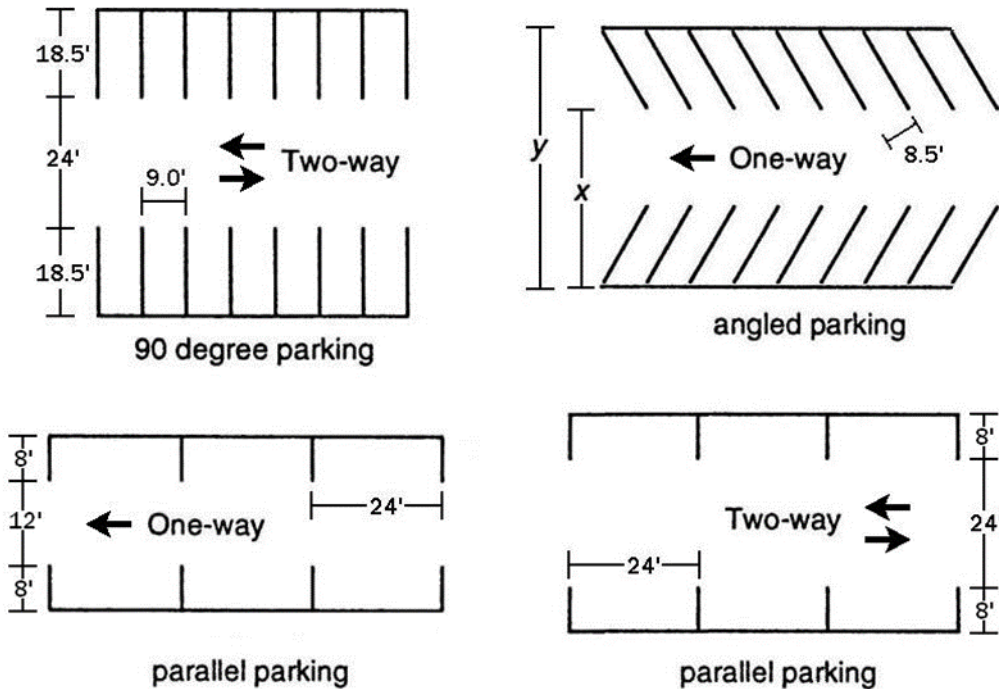
(1) **Review and Approval Requirements.** Plans for the construction of any parking lot in conjunction with a new development shall be submitted for review and approval according to the normal site plan review procedures. Plans for expansion of an existing parking lot that is not associated with other new development shall be submitted to the Zoning Administrator for review and approval prior to the start of construction. Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a Certificate of Occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.

(2) **Dimensions.**

(a) Off-street parking shall be designed in conformance with the following standards and diagram:

Parking Angle	Parking Stall Dimensions		Drive Aisle Width
	Width	Depth	
0° (parallel)	24.0 feet	8.0 feet	16.0 feet ( <i>one-way</i> ) 24.0 feet ( <i>two-way</i> )
Up to 45°	8.5 feet	16.6 feet	12.0 feet ( <i>one-way only</i> )
46° to 60°	8.5 feet	18.2 feet	16.0 feet ( <i>one-way only</i> )

61° to 75°	8.5 feet	18.5 feet	20.0 feet
76° to 90°	9.0 feet	18.5 feet	24.0 feet



**Figure 4.1: Off-Street Parking Layouts**

**(3) Layout.**

- (a) **Striping.** All paved parking lots must be striped with conforming parking spaces matching the approved plan for the parking lot and in compliance with ADA requirements for barrier-free parking spaces. The striping must be maintained so as to be visible to drivers.
- (b) **Ingress and Egress.** All spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and driveways.
- (c) **Electric Vehicle Charging.** Electric vehicle charging shall be permitted in all parking lots, provided that the dimensional requirements of this Article for parking spaces and drive aisles are met.

**(4) Surfacing and Drainage.**

- (a) All off-street parking areas, access lanes, driveways and other vehicle maneuvering areas shall be maintained with a smooth, dustless surface (including re-grading and watering down the unpaved surface as necessary), but need not be paved.
- (b) Off-street parking areas, access lanes, and driveways shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property.

**(5) Curbs, Wheel Stops.** Wheel stops must be provided to prevent vehicles from extending over grass areas, setback lines, or lot lines.



**(6) Maintenance.** All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related appurtenances shall be maintained in good condition.

**(D) Recreational Vehicle Parking.** Recreational vehicles, as defined in Section 20.01, including campers and other recreational equipment, may be parked or stored by the owner on any property. Recreational vehicles that are not parked or stored in a building may be parked or stored on a lot provided that the vehicles comply with minimum front, side, and rear setback requirements for accessory structures.

## **Section 9.02 Loading Space Requirements**

**(A) Scope of Loading Space Requirements.** Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public use of streets, alleys, parking areas, driveways, sidewalks, and other public areas.

### **(1) General Applicability.**

**(a)** The requirements of this Section shall only apply in the H Zoning District.

**(b)** Within the H District, on the same premises with every building occupied for manufacturing, storage, warehousing, display and sale of goods, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, dry cleaning establishments, and other uses involving the receipt or distribution of materials, merchandise, or vehicles, there shall be provided and maintained at least one dedicated area for loading and unloading as required in this Section.

**(2) Change in Use or Intensity.** Whenever use of a building, structure, or lot is changed, loading space shall be provided as required by this Ordinance for the new use.

### **(B) General Requirements.**

**(1) Location.** The loading space shall be clearly marked and defined with appropriate signage and striping. Loading/unloading operations shall not interfere with traffic on streets or off-street parking.

**(2) Size.** They required loading space shall be a minimum of ten (10) feet in width and fifty (50) feet in length, with a vertical clearance of fifteen (15) feet.

**(3) Surfacing and Drainage.** Loading areas shall be maintained with a smooth, dustless surface (including re-grading and watering down the unpaved surface as necessary), but need not be paved.

**(4) Waiver.** The Planning and Zoning Commission may waive the loading space requirement upon making the determination that another standard would be more appropriate because of the number or type of deliveries experienced by a particular business or use.

# Article 10 Landscaping and Screening

## Section 10.01 Intent and Scope of Requirements

- (A) **Intent.** Landscaping enhances the visual image of the Village, while preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. These provisions are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the Village's environment.
- (B) **Scope of Application.**
  - (1) The requirements in this Article shall apply only in the H Zoning Districts.
  - (2) Sites must be brought into compliance with the requirements of this section at the time of Site Plan Approval (Administrative or by the Planning and Zoning Commission).
  - (3) Improvements not requiring site plan approval shall not trigger the requirements of this section.
- (C) **Minimum Requirements.** The requirements in this Article are minimum requirements, and under no circumstances shall they preclude the developer constructing more extensive landscaping.

## Section 10.02 General Landscaping Requirements

- (A) **Screening of Neighborhood or Agricultural.** Along any lot line abutting an N or A District, landscape screening shall be required. Landscape screening shall take the form of an area, at least 10 feet wide and extending along the entire lot line, planted with one tree per 30 feet of property line, to buffer the view of the H District property from the N or A Zoning District.
- (B) **Waiver Due to Sufficient Existing Vegetation.** The Planning and Zoning Commission may waive the above requirement upon determining that the development plan for the site retains sufficient existing trees and other vegetation so as to make any additional landscaping redundant.

## Section 10.03 Installation and Maintenance

The following standards shall be observed where installation and maintenance of landscape materials are required:

- (A) **Installation.** Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, shrubs, hedges, and vines shall be generously mulched at the time of planting.
- (B) **Seeding or Sodding.** Lots or parcels shall be seeded or sodded within ninety (90) days after occupancy.
- (C) **Protection from Vehicles.** Landscaping shall be protected from vehicles through use of wheel stops in parking lots.
- (D) **Off-Season Planting Requirements.** If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with Section 15.06.
- (E) **Maintenance.** Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the Zoning Administrator, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.

- (a)** Trees, shrubs , and other plantings and lawn areas shall be watered regularly throughout the growing seasons.
- (b)** All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed.

# Article 11 Signs

## Section 11.01 Purpose

The intent of this Article is to encourage the effective use of signs as a means of communication in the Village, to maintain the aesthetic environment, and to promote the Village's ability to attract sources of economic development and growth. The placement and design of signs should further the land use planning objectives of the Village and minimize the possible adverse effect of signs on nearby public and private property. Signs should be compatible with neighborhood character and protect the value of surrounding properties. The regulations contained in this Article are based on a determination that an excessive amount and improper placement of signs results in reduced ability of motorists to see and clearly interpret signs and to safely and efficiently maneuver to their desired destination, as well as degradation of the aesthetic environment of the Village, which is important to economic prosperity and property values in the Village. These regulations also are based on a recognition that businesses and other land uses in the Village require an amount of signage sufficient to provide awareness to passing motorists of the location and nature of the business.

## Section 11.02 Administration and Enforcement

### (A) Plans, Specifications, and Permits.

- (1) **Signs Under 24 Square Feet Exempt:** All lots in the Village shall be permitted to erect up to 24 square feet of static signage without a permit or approval. Such signs must not block clear corner vision as described in Section 11.04.C, but otherwise shall be exempt from this section.
- (2) **Permits.** Any person or entity desiring to construct more than 24 square feet of signage on a property shall first obtain a permit from the Zoning Administrator. A permit shall require payment of a fee, which shall be established by the Village Council.
- (3) **Applications.** Application for a sign permit shall be made upon forms provided by the Zoning Administrator. Where several signs are proposed for the same use, all such signs may be included in a single permit application. The following information shall be required:
  - (a) Name, address, and telephone number of the applicant.
  - (b) Location of the building, structure, or lot on which the sign is to be attached or Erected.
  - (c) Position of the sign in relation to nearby buildings, structures, property lines, and right-of-way lines.
  - (d) Plans of the sign drawn to scale, accurately depicting its dimensions, height and location in relation to surrounding lot lines and public rights-of-way.
  - (e) Identification of means of illumination of the sign, if any.

- (f) Name and address of the person, firm, or corporation owning, erecting, and maintaining the sign.
- (g) Written consent of the record owner of the property upon which the sign is proposed to be located, or by other evidence that the applicant is entitled to erect and maintain the sign as proposed.
- (h) Other information required by the Zoning Administrator to make the determination that the sign is in compliance with all applicable laws and regulations.

**(4) Review of Application.**

- (a) **Planning and Zoning Commission Review.** Sign permit applications submitted in conjunction with a Site Plan Review by the Planning and Zoning Commission shall be reviewed as part of that process.
- (b) **Zoning Administrator Review.** The Zoning Administrator shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.
- (c) **Issuance of Permit.** Following review and approval of a sign application by the Planning and Zoning Commission or Zoning Administrator, as appropriate, the Zoning Administrator shall have the authority to issue a sign permit.

**(5) Change of Message.** A new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as, but not limited to, changeable copy on a marquee or monument sign). Furthermore, a permit shall not be required for certain exempt signs, listed in Section 11.03.

**(6) Removal Agreement or Bond.** The Zoning Administrator may require a performance guarantee to guarantee the future removal of a sign. All signs erected by a business must be removed within 30 days if that business closes. Freestanding sign structures may remain in place, but must be fitted with a blank face or a Real Estate Sign until put in use again by a new business.

**(7) Removal of Unsafe or Unlawful Signs.** Signs which are unlawful or deemed to be unsafe by the Zoning Administrator shall be removed or made safe in conformity with the provisions of this Article.

**(B) Nonconforming Signs.** All signs erected or constructed after the effective date of this Ordinance shall conform to the requirements set forth herein and any amendments hereof. Any sign or billboard erected or constructed after the effective date of this Ordinance that does not conform to the requirements of this Ordinance shall be deemed an unlawful structure.

A sign in existence on the effective date of this Ordinance which was constructed in conformity with the ordinances and other applicable laws in effect on the date of its construction, but which, by reason of its size, height, location, design, or construction, is not in conformance with the requirements of this Ordinance, shall be a lawful nonconforming sign, and shall conform to the following regulations.

**(1) No Increase in Nonconformity.** A lawful nonconforming sign may be continued and shall be permitted to remain in place, provided that no action is taken which increases the degree or extent of the nonconformity. However, any sign that has been destroyed by fire, storm, or other unintentional act, or any sign that has been intentionally demolished, shall be either replaced by a conforming sign, or not replaced at all.

(2) **Repairs and Maintenance.** Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than fifty percent (50%) of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or, repair or replacement of electrical wiring or electrical devices.

(3) **Substitution.** No nonconforming sign shall be replaced with another nonconforming sign.

(C) **Waiver Process.** The Planning and Zoning Commission shall have the ability to waive or modify any of the standards in this chapter, provided that the following criteria are met. A waiver granted under this section shall apply for only the lifespan of the sign in question and shall not be transferable to any other sign or lot.

(1) The proposed sign does not endanger the public health, safety, and welfare by virtue of being distracting to drivers, obscuring vision, being unnecessarily bright, being designed or constructed poorly, or in any other way.

(2) The sign does not block the view of other nearby signs to the extent that it would harm the ability of neighboring businesses to operate.

(3) The sign will not be a nuisance to any residential uses.

(4) A sign designed to meet the standards of the Ordinance would not adequately serve the purpose desired by the applicant.

## Section 11.03 Exempt and Prohibited Signs

(A) **Exempt Signs.** A sign permit shall not be required for the following signs, provided all applicable requirements and standards as specified are met, and which shall be permitted subject to applicable provisions herein.

(1) Up to 24 square feet of signage, of any type, on any lot.

(2) Public signs, including the authorized signs of a government body or public utility such as traffic control signs and devices, emergency and warning signs, legal notices, warnings of a hazard, and similar signs.

(3) Any sign required to be displayed by law or necessary for the public safety or civil defense.

(4) Public and private traffic control signs which conform to the requirements of the **Michigan Manual of Uniform Traffic Control Devices**.

(5) Historical plaques erected and maintained by non-profit or governmental organizations, memorial signs, tablets, building cornerstones and erection date stones.

(6) Integral decorative or architectural features of buildings or artwork, including murals, so long as such features or works do not contain an explicit message, words in any language, moving parts, or illumination. All murals must be painted with the permission of the property owner.

(B) **Prohibited Signs.** The following signs are prohibited in all districts.

(1) Signs where illumination can shine directly into the eyes of any occupant of any vehicle traveling upon a road, driveway, or parking area, or into any window of any residence, or where the illumination interferes with the visibility or readability of any traffic sign or device.

- (2) Moving signs, including any sign which has any visible moving parts, visible revolving parts, visible mechanical movement, or any other visible movement achieved by electrical, electronic, or mechanical means, including intermittent electric pulsations or movement caused by normal wind current or multi-vision signs, as defined herein. Flag and banner signs shall be exempt from this regulation.
- (3) Any sign or sign structure which:
  - (a) Is structurally or electrically unsafe;
  - (b) Constitutes a hazard by reason of inadequate maintenance, dilapidation, or abandonment;
  - (c) Has deteriorated to the point where it has become a blight on surrounding properties; or
  - (d) Is not kept in good repair, such that it has broken parts, non-operational lights, or similar issues.
- (4) Any sign obstructing free access to or egress from a required door, window, fire escape, or other required exit.
- (5) Any sign erected on any property, public or private, without the consent of the property owner.
  - (a) For Village property, the Zoning Administrator may approve the placement of a sign, provided that the sign complies with this Article.
  - (b) The Zoning Administrator shall have the authority to immediately remove or cause to be removed any sign which has been placed or located within the public right-of-way contrary to the provisions of the Ordinance or not authorized by the Village, County Road Commission, or Michigan Department of Transportation.

## Section 11.04 Sign Design Standards

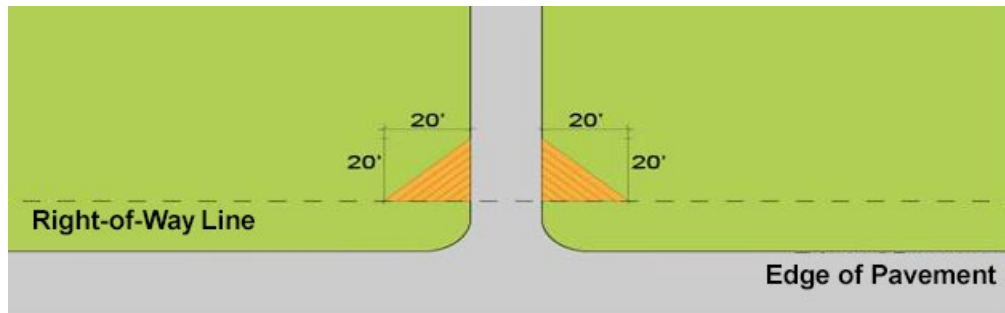
- (A) **Construction Standards.** All signs placed upon any building, structure, lot or parcel shall comply with the following standards.
  - (1) **General Requirements.** All signs shall be designed and constructed in a safe and stable manner in accordance with the County's adopted building code and electrical code. All electrical wiring associated with a freestanding sign shall be installed underground.
  - (2) **Building Code.** In addition to complying with the requirements of this Article, the design and construction of all signs shall comply with the most current version of the Michigan Building Code, as adopted and amended by the Village.
  - (3) **Sign Maintenance.** Every sign in the Village, including those signs for which permits are required or exempt signs for which no permits are required, shall be maintained in good structural condition at all times. All signs, including exempt signs, shall be kept neatly painted, including all metal parts and supports. The Village shall have the authority to order the painting, repair, alteration or removal of signs which become dilapidated or are abandoned, or which constitute a hazard to public safety.
- (B) **Illumination.**
  - (1) **General Requirements.** Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it. Signs may be internally or externally illuminated, except where prohibited in this Article. Uplighting of signage shall be prohibited.

(2) **Non-Glare, Shielded Lighting.** Use of glaring, unshielded, undiffused lights or bulbs shall be prohibited. The source of illumination shall not be visible, shall be fully shielded, and shall cause no glare hazardous to pedestrians, motorists or adjacent residential uses or districts. Light sources for externally-illuminated signs shall be arranged so that light is deflected away from adjoining properties and so that it does not cast glare onto a public right-of-way.

(3) **Light Trespass.** All illuminated signs shall be placed so as to prevent their rays and illumination from being cast upon neighboring residences. The light cast from any sign illumination must reach below 0.5 foot candles at all lot lines.

(4) **Bare Bulb Illumination.** Illumination by unshielded bare bulbs or flames is prohibited.

(C) **Clear Corner Vision.** All freestanding signs in all zoning districts must allow clear corner vision for all street intersections and driveway entrances. Freestanding signs must be less than three feet tall within a triangle formed by two points, each 20 feet away from the intersection of the right-of-way line and the driveway, and the line connecting them, as displayed below:



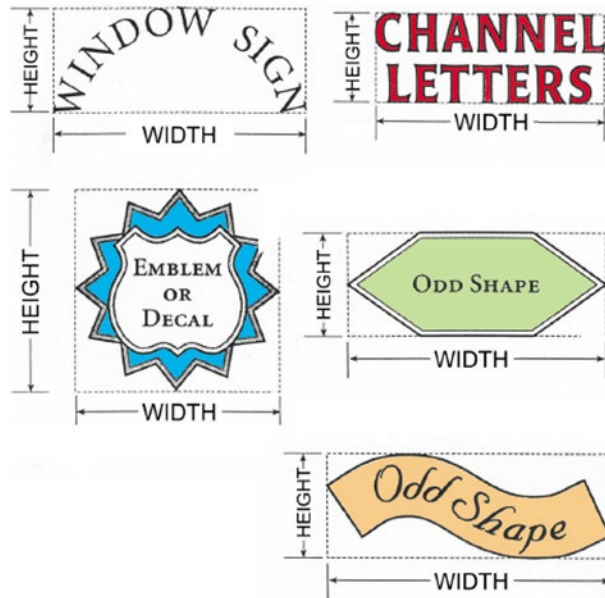
(D) **Measurement.**

(1) **Sign Area.** Sign area shall be computed as follows:

(a) **General Requirements.** Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign.

(b) **Individual Letters, Logos, or Irregular Shapes.** Where a sign consists of individual letters, logos, or other messages affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering, logo, or other message. For irregularly shaped signs, the area shall be computed as including the entire area as measured by enclosing the most protruding points or edges of a sign within the area of the smallest rectangle comprising all of the display area of the sign and including all of the elements of the matter displayed (see illustration below).

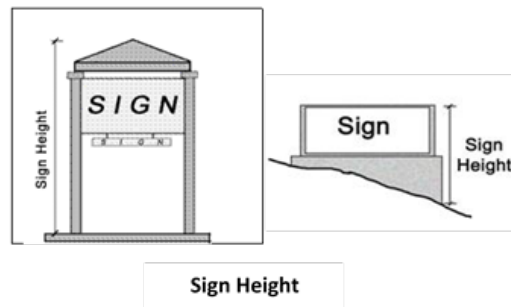




Computation of Sign Area

(c) **Freestanding Sign.** The area of a double-faced freestanding sign shall be computed using only one (1) face of the sign provided that: 1) the outline and dimensions of both faces are identical, and 2) the faces are back-to-back so that only one face is visible at any given time.

(2) **Sign Height Measurement.** The height of a sign shall be measured from the lowest grade directly below the sign. The maximum sign height shall be measured to the top of the sign.



Sign Height

(E) **Electronic Messaging.**

- (1) **Electronic Messaging.** Electronic message signs shall be permitted in all districts, subject to glare prevention requirements.
- (2) **Glare Prevention.** Glare shall be reduced and/or minimized in such a manner as to maintain an appropriate level of contrast during the day. To reduce driver distraction at night and light trespass into residential areas, an automatic dimmer shall be installed to control brightness, which shall not be manually overridden at any time. The maximum brightness of the sign shall not exceed 10,000 NITs. At night, the sign shall be set to no more than 1,000 NITs.

## Section 11.05 Sign Standards

The following standards shall apply to any lot where the property owner proposes more than 24 square feet of signage.

Type of Sign	Zoning Districts	Maximum Total Signage	Maximum Size Per Sign	Maximum Height	Maximum Number
Wall	D	30 sq. ft per wall.	30 sq. ft	N/A	No Limit
	H	100 sq. ft per wall	100 sq. ft.	N/A	No Limit
	N, A	24 sq. ft.	24 sq. ft.	N/A	No Limit
Freestanding	D	24 sq. ft.	24 sq. ft.	5 feet	1
	H	120 sq. ft. per road frontage	72 sq. feet.	8 feet	1 per road frontage
	N, A	24 sq. ft.	24 sq. ft.	4 feet	No Limit
Awning / Canopy	D	50% of canopy	50% of canopy	N/A	No Limit
	H	75% of canopy	75% of canopy	N/A	No Limit
	N, A	Prohibited	Prohibited	N/A	N/A
Window	D, H	50% of window	50% of window	N/A	None

Type of Sign	Zoning Districts	Maximum Total Signage	Maximum Size Per Sign	Maximum Height	Maximum Number
	N, A	Prohibited	Prohibited	N/A	N/A
Projecting	D	16 sq. ft.	16 sq. ft.	No Max	No Limit
	H	24 sq. ft.	24 sq. ft.	No Max	No Limit
	N, A	Prohibited	Prohibited	N/A	N/A

# Article 12 Performance Standards

## Section 12.01 Intent and Scope of Application

- (A) **Intent.** The purpose of this Article is to establish controls on the impacts generated by permitted uses so as to prevent an unreasonable negative impact that might interfere with another person's use of his or her property, or that might cause harm to the public health, safety, and welfare.
- (B) **Scope of Application.** After the effective date of this Ordinance, no structure or tract of land shall hereafter be used, created or occupied, and no structure, or part thereof, shall be erected, altered, reconstructed, or moved, except in conformity with all applicable performance standards set forth in this Article. No site plan or other land use or development application shall be approved unless evidence is presented to indicate conformity with the requirements of this Article.

## Section 12.02 Performance Standards

No activity, operation or use of land, buildings, or equipment shall be permitted if such activity, operation, or use produces an environmental impact or irritant to sensory perception which exceeds the standards set forth in this Section.

- (A) **Noise.** No use in the Village shall generate or permit to be generated audible noise that exceeds 45 dBA ( $L_{max}$ ) or 55 dBC ( $L_{max}$ ) (dBC to dBA ratio of 10 dB per ANSI standard S12.9 Part 4 Annex D) on a consistent and regular basis, as measured at the property line.
- (B) **Surface Water Flow.** No site plan review application shall be approved if it would result in identifiable disruption to the existing or natural flow of water within drainage ditches, natural water courses, or drains having a recorded easement, unless evidence of a feasible alternate method of drainage is presented and approved by the County Drain Commissioner.
- (C) **Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion.** Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, as amended, or other applicable state or federal regulations. No person, firm or corporation shall operate or maintain any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.
- (1) The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles, or debris from open stockpiles, shall be prohibited. Emission of particulate matter from material products, or surfaces subject to wind erosion shall be controlled by paving, oiling, wetting, covering, landscaping, fencing, or other means.
- (2) Residential wood stoves, wood-burning fireplaces, personal campfires, and personal grills/barbecues shall be exempt from this section.
- (D) **Odor.** Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life.
- (E) **Glare and Heat.** Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half (1/2) footcandle when measured at any point along the property line of the site on which the operation is located. Any operation which produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.

(F) **Impacts from Other Activities.** Upon request, property owners shall provide the Village with evidence of compliance with relevant county, state and federal laws, ordinances, rules and regulations related to any of the following activities.

- (1) Storage and handling of flammable liquids, liquefied petroleum, and explosives.
- (2) Use of above or below ground storage tanks to contain flammable or toxic material.
- (3) The storage, use, or manufacture of detonable material.
- (4) Emission of gasses that could be injurious or destructive to life or property.
- (5) Use of electronic equipment in an industrial, commercial, residential or other operation.
- (6) Use of radioactive material and production of radioactive waste.
- (7) Use of solar panels or wood burners.
- (8) Wind-powered generators.

### **Section 12.03 Procedures for Determining Compliance**

In the event that the Village receives complaints or otherwise acquires evidence of possible violation of any of the performance standards set forth in this Article, the following procedures shall be used to investigate, and if necessary, resolve the violation:

(A) **Official Investigation.** Upon receipt of evidence of possible violation, the Zoning Administrator shall make a determination whether there is reasonable cause to suspect the operation is indeed in violation of the performance standards. The Zoning Administrator may initiate an official investigation in order to make such a determination.

(1) Upon initiation of an official investigation, the Zoning Administrator is empowered to require the owner or operator of the facility in question to submit data and evidence deemed necessary to make an objective determination regarding the possible violation. Failure of the owner or operator to supply requested data shall constitute grounds for taking legal action to terminate the use and/or deny or cancel any permits required for continued use of the land. Data which may be required includes, but is not limited to the following:

- (a) Plans of the existing or proposed facilities, including buildings and equipment.
- (b) A description of the existing or proposed machinery, processes, and products.
- (c) Specifications for the mechanisms and techniques used or proposed to be used to control emissions regulated under the provisions of this Article.
- (d) Measurement of the amount or rate of emissions of the material purported to be in violation.

(B) **Method and Cost of Determination.**

(1) The Zoning Administrator shall take measurements and complete the investigation necessary to make an objective determination concerning the purported violation. Where required measurements and investigation can be accurately made by the Zoning Administrator with equipment and personnel normally available to the Village without extraordinary expense, such measurements and investigation shall be completed before notice of violation is issued. If necessary, skilled personnel and equipment or instruments shall be secured in order to make the required determination.

(2) If the alleged violation is found to exist, the costs of making such determination shall be charged against those responsible, in addition to such other penalties as may be appropriate. If it is determined that no substantive violation exists then the costs of this determination shall be paid by the Village.

- (C) **Appropriate Remedies.** If, after appropriate investigation, the Zoning Administrator determines that a violation does exist, the Zoning Administrator shall take, or cause to be taken, lawful action as provided by this Ordinance to eliminate such violation. The owners or operators of the facility deemed responsible shall be given written notice of the violation. The Zoning Administrator shall take appropriate action in accordance with the owner or operator's response to the notice of violation. Appropriate action includes the following:
- (1) **Correction of Violation within Time Limit.** If the alleged violation is corrected within the specified time limit, even if there is no reply to the notice, the Zoning Administrator shall note "Violation Corrected" on the Village's copy of the notice, and the notice shall be retained on file. If necessary, the Zoning Administrator may take other action as may be warranted by the circumstances of the case, pursuant to the regulations in this and other ordinances.
  - (2) **Violation Not Corrected and No Reply from Owner or Operator.** If there is no reply from the owner or operator within the specified time limits, and the alleged violation is not corrected in accordance with the regulations set forth in this Article, then the Zoning Administrator shall take such action as may be warranted to correct the violation, as specified in Section 14.09, Violations and Penalties.
  - (3) **Reply Requesting Extension of Time.** If a reply is received within the specified time limit indicating that an alleged violation will be corrected in accordance with the regulations set forth in the Zoning Ordinance, but that more time is required than was granted by the original notice, the Zoning Administrator may grant an extension if:
    - (a) The Zoning Administrator deems that such extension is warranted because of the circumstances in the case, and
    - (b) The Zoning Administrator determines that such extension will not cause imminent peril to life, health, or property.
  - (4) **Reply Requesting Technical Determination.** If a reply received within the specified time limit requests further review and technical analysis even though the alleged violations continue, then the Zoning Administrator may call in properly qualified experts to complete such analysis and confirm or refute the initial determination of violation.

# Article 13 PUD, Planned Unit Development

## Section 13.01 Intent

- (A) Planned Unit Development provides a regulatory option that is intended to provide a degree of flexibility so as to achieve development that is in accord with the Village's Master Plan; economy and efficiency in the use of land, natural resources, energy, and in the provision of public services and utilities; useful open space particularly suited to the proposed development; conservation of natural features; and, development that satisfies the needs of Village residents. A subdivision plat must be approved as a Planned Unit Development.
- (B) Furthermore, Planned Unit Development is intended to encourage innovation in land use, particularly on sites with significant natural, historical, and architectural value, or on sites that exhibit difficult development constraints. Planned Unit Development allows for a mix of land uses and clustering of residential structures, so as to reduce development costs, preserve natural features, and maintain open space.
- (C) Planned Unit Development is intended to further the following objectives:
- (1) Preserve open fields, woodlands, wetlands, areas of steep topography, creeks, ponds and similar natural assets;
  - (2) Encourage a creative approach to development design in the Village;
  - (3) Encourage an efficient, aesthetic and desirable use of open areas and a reduction in development costs by allowing the developer to avoid and preserve natural obstacles on the site;
  - (4) Encourage open space and recreational facilities within and around new development;
  - (5) Promote the goals of the Village's Master Land Use Plan to maintain the Village's rural character, maintain an attractive landscaped corridor along the Village's major road frontages, maintain the traffic carrying capacity of the Village's major roads, and protect environmentally-sensitive areas;
  - (6) Provide the Village with a higher degree of control over the use of land and structures and design details of development in locations where application of conventional zoning requirements may not be appropriate;
  - (7) Provide the opportunity for inclusion in a single, unified development plan of associated or ancillary uses which are related to or supportive of the principal use.

## Section 13.02 Unified Control

The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project, or assuring completion of the project, in conformity with this Ordinance. The property owner must have a physical street address.

The applicant shall provide legal documentation of single ownership or control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Village Clerk.

## Section 13.03 Project Design Standards

Proposed Planned Unit Developments shall comply with the following project design standards:

- (A) **Permitted Uses.** Any land use allowed as a principal permitted use or approvable special use in this ordinance may be included in a Planned Unit Development as a principal or accessory use.
- (B) **Dimensional Standards.** Modification to dimensional standards may be approved by the Village Council, upon recommendation from the Planning and Zoning Commission, upon making the determination that other setbacks would be more appropriate because of the topography, existing trees and other vegetation, proposed grading and landscaping, or other existing or proposed site features. The Village Council may also approve modifications to dimensional standards, including minimum lot area or width, in exchange for the provision of dedicated open space by the developer.
- (C) **Open Space.** The Village Council, upon receiving a recommendation from the Planning and Zoning Commission, may require open space to be set aside by the developer through an irrevocable conveyance, such as deed restrictions or covenants that run with the land or through a conservation easement, whereby all rights to develop the land are conveyed to a land conservation organization or other public body, assuring that the open space will be developed according to the site plan. Such conveyance shall:
  - (1) Indicate the proposed use(s) of the required open space.
  - (2) Indicate how the leisure and recreation needs of all segments of the population residing in or using the planned development will be accommodated.
  - (3) Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space.
  - (4) Provide maintenance standards and a maintenance schedule.
  - (5) Provide notice of possible assessment to the private property owners by Village of Muir for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance or in the event that other public facilities are not maintained.
  - (6) Be recorded with the Ionia County Register of Deeds to provide record notice of the restrictions to all persons having an interest in the property contained in the planned unit development.
  - (7) **Frontage and Access.** Planned Unit Developments shall front onto a paved public road and the main means of access to the development shall be via the paved public road. Each residential lot shall have frontage on, and each residential dwelling unit shall have direct access to, an approved public or private road. Individual residential dwelling units in a Planned Unit Development shall not have direct access onto a county primary road or state highway.

## Section 13.04 Approval Procedures

- (A) **Zoning Amendment.** The approval of a Planned Unit Development application shall require an amendment to the Zoning Ordinance to revise the zoning map and designate the subject property as "PUD, Planned Unit Development." Approval granted under this Article, including all aspects of the final plan and conditions imposed on it, shall constitute an inseparable part of the zoning amendment.



- (B) **General Application Requirements.** The application shall be submitted to the Village of Muir Clerk and shall be accompanied by all required fees and documents as specified herein. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the plan may be tabled due to lack of representation.
- (C) **Pre-Application Conference.** In order to facilitate review of a Planned Unit Development proposal in a timely manner, the applicant may request an informal pre-application conference with the Village Zoning Administrator. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the application and supporting materials.
- (D) **Approval Process:**
- (1) **Professional Review.** The Planning and Zoning Commission may request professional review of the preliminary plans by appropriate agencies or consultants. If such review is requested, the designated agencies or consultants shall prepare and transmit reports to the Planning and Zoning Commission stating their findings and conclusions and any recommended changes or revisions. The Village shall require the applicant to pay the cost of any such review fees.
- (2) **Public Hearing.** The Planning and Zoning Commission shall hold a public hearing, following the requirements for notice in the Michigan Zoning Enabling Act on any Planned Unit Development proposal before it is approved.
- (3) **Recommendation of Planning and Zoning Commission.** The Planning and Zoning Commission shall review the application for Planned Unit Development, together with the public hearing findings and any requested reports and recommendations from the Zoning Administrator and Village Public Safety officials, Village Engineer, and other reviewing agencies. The Village Attorney shall review and comment on the proposed Planned Development Agreement and all related documents. Based on its review of the proposed plans and supporting documentation, the Planning and Zoning Commission shall make findings of fact with respect to compliance with the standards and criteria in this Ordinance. The Planning and Zoning Commission shall then set forth its findings and recommendation in a written report to the Village Council, based on the requirements and standards of this Ordinance. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial as follows:
- (a) **Approval.** Upon determination by the Planning and Zoning Commission that the final plan for Planned Unit Development is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning and Zoning Commission shall recommend approval.

**(b) Approval with Conditions.** The Planning and Zoning Commission may recommend that the Village Council impose reasonable conditions upon the approval of a Planned Unit Development, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect the natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance. In the event that the Planned Unit Development is approved subject to specified conditions, such conditions shall become a part of the record of approval, and such conditions shall be modified only as provided in this Ordinance. Where construction is not proposed to begin immediately, or where a project is proposed for construction in phases, the Planning and Zoning Commission may recommend that final approval be granted subject to subsequent review and approval of detailed site plans for each facility or phase, provided that:

- (i) The location and approximate size of such buildings shall be shown on the overall plan for the Planned Unit Development,
- (ii) Detailed site plans for such buildings shall be submitted for review and approval in accordance with the site plan review requirements in Section 14.04, and
- (iii) Phasing requirements shall be complied with.

**(c) Denial.** Upon determination by the Planning and Zoning Commission that a Planned Unit Development proposal does not comply with the standards and regulations set forth in this Ordinance or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Village, the Planning and Zoning Commission shall recommend denial.

**(4) Transmittal of Findings to Village Council.** The Planning and Zoning Commission shall prepare and transmit a report to the Village Council stating its conclusions and recommendation, the basis for its recommendation, and any recommended conditions relating to an affirmative decision.

**(E) Village Council Decision.** Following receipt of the Planning and Zoning Commission's report, the application shall be placed on the agenda of the next available Village Council meeting. The applicant shall provide additional copies of the plan as requested by the Village to be provided to the Board. The Village Council shall review the final plan and proposed Planned Unit Development Agreement, together with the findings of the Planning and Zoning Commission, and, if requested, any reports and recommendations from consultants and other reviewing agencies. Following completion of its review, the Village Council shall approve, approve with conditions, or deny a planned development proposal in accordance with the guidelines in this Ordinance.

**(1) Planned Unit Development Agreement.** If the Village Council approves the Planned Development proposal, the Village and applicant shall execute a Planned Unit Development Agreement, subject to Village Legal Counsel approval which shall be recorded in the office of the Ionia County Register of Deeds. Final approval of the Planned Unit Development plan shall become effective upon recording of the Agreement and evidence of the recording being presented to the Village.

- (2) **Effect of Approval.** Approval of a Planned Unit Development proposal shall constitute an amendment to the Zoning Ordinance. All improvements and use of the site shall be in conformity with the Planned Unit Development and any conditions imposed. Notice of the adoption of the amendment shall be published in accordance with the requirements set forth in this Ordinance.
- (F) **Completion of Site Design.** Following final approval of the Planned Unit Development proposal, a building permit may be obtained for the entire project or specific phases provided that final site plan approval for the project or the phase, as applicable, has been obtained, and provided further that the engineering plans for the project or the phase, as applicable, have been approved by the Village Engineer and Zoning Administrator. It shall be the responsibility of the applicant to obtain all other applicable Village, County, or State permits prior to issuance of a building permit.
- (1) Construction shall commence on at least one phase of the project within twelve (12) months of final approval. The Village Council may also approve Planned Unit Development Agreements that waive this requirement. The Village Council may also consider a twelve (12) month extension, upon written request from the applicant, if it finds that the approved site plan adequately represents current conditions on and surrounding the site. The written request for extension must be received prior to the 12-month expiration date. In the event that construction has not commenced and a request for extension has not been received within 12 months, the Village may initiate proceedings to void the PUD approval.
- (2) It shall be the responsibility of the owner of a property for which approval has been granted to maintain the property in accordance with the approved Planned Unit Development amendment on a continuing basis until the property is razed, or until an amendment to the Planned Unit Development is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the Zoning Ordinance and shall be subject to the penalties appropriate for such violation.
- (3) Prior to expansion or conversion of a Planned Unit Development project to include additional land, site plan review and approval shall be required pursuant to the requirements of this Article and Ordinance.
- (G) **Performance Guarantee.** A performance guarantee may be required the Village to ensure faithful completion of improvements.
- (H) **Application Data Requirements.** Applications for Planned Unit Development shall include all data requirements specified in this sub-section. All information required to be furnished under this sub-section shall be kept updated until a Certificate of Occupancy has been issued.
- (1) A Site Plan meeting the requirements of this Ordinance.
- (2) A draft Planned Unit Development Agreement, setting forth the terms and conditions negotiated and to be agreed to by the applicant and the Village, and upon which approval of the Planned Unit Development proposal will be based. The Planned Unit Development Agreement shall, at minimum, include the following:
- (a) A description of the land that is subject to the agreement.
- (b) A description of the permitted uses of the property, the density or intensity of use, and the maximum height and size of proposed buildings.
- (c) History of the review procedures and action taken by the Planning and Zoning Commission or Village Council.
- (d) List of all plans, documents, and other materials submitted by the applicant.

- (e) Review and explanation of all special provisions agreed to by the applicant and Village during the course of review of the Planned Development proposal.
  - (f) An explanation of all public improvements to be undertaken by the applicant or the Village in conjunction with the proposed Planned Development project.
  - (g) Description of any required dedications and permits.
  - (h) Confirmation that the proposed development is consistent with applicable Village ordinances and planning objectives.
  - (i) Duration of the Planned Unit Development Agreement, along with terms under which a termination date may be extended by mutual agreement.
  - (j) Applicability of future amendments to the general zoning regulations to land that is subject to the proposed Planned Unit Development Agreement.
  - (k) Extent to which the Planned Unit Development plan may be modified subject to administrative approval, Planning and Zoning Commission approval, or Village Council approval.
- (l) **Revision to Approved Plans.** Approved final plans for a planned development may be revised through the same process as the first approval, described above.

## **Section 13.05 Review and Approval Standards**

In considering any application for approval of a Planned Unit Development plan, the Planning and Zoning Commission and Village Council shall make their determinations based on the following:

- (A) **Conformance with the Planned Unit Development Concept.** The overall design and all uses proposed in connection with a Planned Unit Development shall be consistent with and promote the intent of the Planned Unit Development concept, as well as with specific project design standards set forth herein.
- (B) **Compatibility with Adjacent Uses.** The proposed Planned Unit Development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to:
  - (1) The bulk, placement, and materials of construction of proposed structures.
  - (2) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
  - (3) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - (4) The hours of operation of the proposed uses.

(5) The provision of landscaping and other site amenities.

- (C) **Public Services.** The proposed Planned Unit Development shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services, and educational services, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the Planned Unit Development is completed. All utility services shall be underground.
- (D) **Protection of Natural Environment.** The proposed Planned Unit Development shall be protective of the natural environment, and shall be in compliance with all applicable environmental protection laws and regulations.
- (E) **Compatibility with the Master Plan.** The proposed Planned Unit Development shall be consistent with the Future Land Use map in the Village Master Plan.
- (F) **Compliance with Applicable Regulations.** The proposed Planned Unit Development shall be in compliance with all applicable Federal, state, and local laws and regulations.

# Article 14 Procedures and Processes

## Section 14.01 Purpose

The purpose of this Article is to provide procedures and related standards for the processing of all requests for Village action or review under the provisions of this Ordinance.

## Section 14.02 Required Approval Process

The following approval processes shall be required to undertake the following activities in the Village. In the event of an application that falls under two or more of the categories below, the most intensive applicable approval process shall be required. The table below does not designate the approval process for home-based businesses. All home-based businesses are required to receive a zoning permit and shall not be subject to any other approval process described below.

**N = No Approval Process Required.** Zoning regulations will be enforced as described in Section 14.09 in the event of a complaint (See section 12.03). If no complaint is filed with the Village, then no action shall be taken to determine or enforce compliance.

**Z = Zoning Permit,** as described in Section 14.03.

**A = Administrative Site Plan Review.** A Site Plan, meeting the requirements of Section 14.04.E, shall be submitted for approval by the Zoning Administrator. No approval by the Planning and Zoning Committee shall be required.

**SPA= Site Plan Approval,** as described in Section 14.04.

**SLU = Special Land Use Approval,** as described in Section 14.05.

**X = Not Permitted.**

Construction of Structures	A	N	H	D
Fence	N	N	N	N
Accessory Structure	N	N	N	N
Sign (first 24 square feet)	N	N	N	N
Sign (additional square footage)	Z	Z	Z	Z
Parking Lot Expansion	Z	Z	Z	Z
Expansion of Principal Structure	Z	Z	SPA	A
New Principal Structure	A	A	SPA	SPA

Establishment of New Uses	A	N	H	D
Agritourism	SLU	X	X	X
Bank	X	A	A	Z
Barber Shops/Beauty Shops	Z	Z	A	Z
Bed and Breakfast	SPA	SPA	SPA	SPA
Boarding Kennels (Commercial)	Z	SLU	SLU	X

<b>Establishment of New Uses</b>	<b>A</b>	<b>N</b>	<b>H</b>	<b>D</b>
Breeding Kennels (Commercial)	Z	SLU	SLU	X
Brewpub/Microbrewery/Distillery	X	SLU	A	Z
Campground	A	SPA	SPA	SLU
Cemetery	SPA	SPA	SPA	SPA
Child Care Center (Non-Home-Based)	SLU	SLU	SPA	SPA
Crop Cultivation	N	N	N	N
Drive-Thru	X	X	SLU	SLU
<b>Dwelling Units</b>				
Single Family (One Unit on Lot)	N	N	Z	Z
Duplex (Two Units on Lot)	Z	Z	A	Z
Triplex (Three Units on Lot)	Z	Z	A	Z
Quadplex (Four Units on Lot)	Z	Z	A	Z
Townhouse	X	SLU	SPA	SPA
Multiple Family (More than Four Units, including Senior Housing)	X	SLU	SPA	SPA
Manufactured Housing	A	Z	SPA	SPA
Accessory Dwelling Unit	Z	Z	Z	Z
State-Licensed Residential Facility (non-Daycare)	SLU	SLU	SLU	SLU
Essential Services	Z	Z	Z	Z
Family Day Care Home	Z	Z	Z	Z
Funeral Home and Mortuary	SLU	SLU	SPA	SPA
Government or Public Building	SPA	SPA	SPA	SPA
Group Day Care Home	Z	Z	Z	Z
Hotel	X	X	SPA	SPA
Institution of Higher Education	SPA	SPA	SPA	SPA
Manufacturing	X	X	SPA	SLU
Marihuana Establishment	SLU	X	SLU	SLU
Medical or Dental Clinic	Z	Z	A	Z
Mini-Warehouse	X	X	SPA	X
Office	N	N	A	Z
Open Air Business	SPA	SLU	SPA	SPA
Pet Shop and Pet Grooming	Z	Z	A	A
Preserve/Conservation Area	N	N	N	N
Primary/Secondary School	SPA	SPA	SPA	SPA
Recreation - Indoor	X	X	SPA	SPA
Recreation - Outdoor	SPA	SLU	SPA	SPA
Religious Institution	SPA	SPA	SPA	SPA
Restaurant/Bar	X	SLU	A	A
Retail Store, including Food Sales	X	SLU	A	A
Sexually Oriented Businesses	X	X	SLU	X
Solar Energy System – Small	Z	Z	Z	Z
Solar Energy System – Large	SLU	X	SLU	X
Theater	X	SLU	SPA	SPA
Utility Structures and Substations	Z	Z	Z	Z
Vehicle Dealership	Z	Z	SPA	SPA
Vehicle Filling Stations (Gas Stations)	X	X	SPA	SLU

<b>Establishment of New Uses</b>	<b>A</b>	<b>N</b>	<b>H</b>	<b>D</b>
<b>Vehicle Repair</b>	Z	Z	SPA	SPA
<b>Vehicle Wash</b>	Z	Z	SPA	SPA
<b>Veterinary Clinics</b>	Z	Z	SPA	SPA
<b>Warehousing</b>	X	X	SPA	SPA
<b>Wholesale</b>	SPA	X	SPA	SPA
<b>Wind Energy Conversion Systems</b>	SLU	SLU	SLU	SLU
<b>Wireless Telecommunications</b>	A	A	A	A

### **Section 14.03 Zoning Permit**

Where required, a Zoning Permit, approved by the Zoning Administrator, must be approved by the Zoning Administrator prior to the any application to the Ionia County Building Department for a building permit for any exterior construction work in Village of Muir. Only the information specifically needed, in the opinion of the Zoning Administrator, to determine compliance with this Ordinance, shall be required in a Zoning Permit application.

### **Section 14.04 Site Plan Review / Process**

(A) **Intent.** The site plan review procedures, standards, and required information in this Section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations and standards contained in this Ordinance and other applicable ordinances and laws, including the Michigan Building Code, as amended, to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the Village and applicant so as to facilitate development in accordance with the Village's land use objectives.

(B) **Site Plan Review Applications and Procedures.**

(1) **Submission of Site Plan for Formal Review.** In order to initiate formal review by the Planning and Zoning Commission and Village Council, the applicant is required to submit the materials listed in Section 14.04 E below, as well as all required fees, to the Village Clerk. Electronic submission is permitted.

(2) **Distribution of Plans.** Upon submission of all required application materials, the site plan proposal shall be placed on the next open Planning and Zoning Commission agenda. The site plans and application shall be distributed to appropriate Village officials for review.

(C) **Review and Final Action.**

(1) **Review.** The Planning and Zoning Commission or Zoning Administrator shall review the site plan proposal and shall then make a final decision, based on the requirements and standards of this Ordinance. The Site Plan may be approved, approved with conditions, or denied.

(2) **Time Period for Obtaining Approval.** An applicant shall have a maximum of two (2) years from the date of submittal of a site plan for formal review to achieve final approval of the site plan, including compliance with all conditions. If approval is not achieved within this period, the application becomes null and void and a new application is required to pursue site plan review further.



- (3) Recording of Site Plan Review Action.** Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning and Zoning Commission. The grounds for action taken upon each site plan shall also be recorded in the minutes.
- (a)** After final action has been taken on a site plan and all steps have been completed, three copies of the application and plans shall be marked APPROVED or DENIED, as appropriate, with the date that action was taken. One marked copy will be returned to the applicant and the other two copies will be kept on file in the Village Hall. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the Planning and Zoning Commission secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final Planning and Zoning Commission approval.
- (4) Procedure after Site Plan Approval.**
- (a) Application for Building Permit.** Following final approval of the site plan and the engineering plans, the applicant may apply for a building permit from the Ionia County Zoning Administrator. It shall be the responsibility of the applicant to obtain all other applicable Village, County, State, or Federal permits prior to issuance of a building permit.
- (b) Expiration of Site Plan Approval.** If construction has not commenced, or if the project has commenced but has not made reasonable progress, within twelve (12) months after final approval of the site plan, the site plan approval expires and a new application for site plan review shall be required. However, the applicant may apply in writing to the Planning and Zoning Commission for an extension of site plan approval. The Planning and Zoning Commission may grant one or more extensions of up to a total of twelve (12) months upon request from the applicant prior to expiration of the previous approval and provided that it finds that the approved site plan adequately represents current conditions on and surrounding the site and provided that the site plan conforms to current Zoning Ordinance standards.
- (c) Property Maintenance after Approval.** It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.
- (i)** With respect to condominium projects, the Master Deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The Master Deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.
- (5) Site Plan Violation.** In the event that construction is not in compliance with the approved plans, the Zoning Administrator or his/her designee shall take corrective action, unless a revised site plan is submitted for Village review. If the builder or developer fails to take corrective action or pursue approval of an amended site plan, the Zoning Administrator or his/her designee may issue a citation, after which the Village Council may commence and pursue appropriate action in a court having jurisdiction.

- (6) **Modification to Approved Plan.** Modifications to an approved site plan shall be reviewed by, and may be approved by, the Zoning Administrator. The Zoning Administrator may determine that the requested revisions are substantial enough that a new site plan approval process, as described in this Ordinance, is required, and refer the site plan to the Planning and Zoning Commission.

Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file at Village Hall. The Planning and Zoning Commission shall be advised of all minor site plan modifications approved by the Zoning Administrator.

- (D) **Required Information on Site Plans.** The following information shall be included on all site plans, where applicable. The Planning and Zoning Commission or Zoning Administrator shall have the jurisdiction to waive any of these requirements upon determining that it does not apply to the site or that there are practical difficulties of a non-monetary nature in obtaining the information.

(1) **Application Form.** The application form shall contain the following information:

- (a) Applicant's name and address.
- (b) Name, address and signature of property owner, if different from applicant.
- (c) Common description of property and complete legal description including the Tax Identification number.
- (d) Dimensions of land and total acreage.
- (e) Existing zoning of applicant's parcel and surrounding land.
- (f) Existing use of the applicant's parcel.
- (g) Proposed use of land and name of proposed development, if applicable.
- (h) Proposed buildings to be constructed, including square feet of gross and usable floor area.
- (i) Proof of property ownership.
- (j) Names, addresses, and telephone numbers of engineers, attorneys, architects, and other professionals associated with the project.
- (k) Review comments and/or approvals from County, State, and Federal agencies. Copies of letters or approval forms should be submitted with the site plan application.

(2) **Descriptive and Identification Data.** Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than 1 inch = 20 feet for property less than 1 acre, 1 inch = 30 feet for property larger than 1 acre but less than 3 acres, and 1 inch = 50 feet for property larger than 3 acres, unless another scale is approved by the Zoning Administrator. Sheet size shall be at least 24 inches by 36 inches. The following descriptive and identification information shall be included on any site plans.

- (a) Applicant's name and address, and telephone number.
- (b) Title block indicating the name of the development.
- (c) Scale.
- (d) Northpoint.

- (e) Dates of submission and revisions (month, day, and year).
- (f) Location map drawn to scale with north point.
- (g) Legal and common description of property, including acreage.
- (h) The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel the plan should indicate the boundaries of total land holding.
- (i) A schedule for completing the project, including the phasing or timing of all proposed developments.
- (j) Identification and seal of the architect, engineer, land surveyor, or landscape architect who prepared or supervised and approved the plan.
- (k) Written description of proposed land use.
- (l) Zoning classification of applicant's parcel and all abutting parcels.
- (m) Proximity to driveways serving adjacent parcels.
- (n) Proximity to section corner and major thoroughfares.
- (o) Notation of any variances that have or must be secured.
- (p) Net acreage (minus rights-of-way) and total acreage, to the nearest 1/10 acre.

**(3) Site Data.**

- (a) Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
- (b) Front, side, and rear setback dimensions.
- (c) Existing and proposed site features, including buildings, roadway widths and names, and parking areas.
- (d) Dimensions and centerlines of existing and proposed roads and road rights-of-way, and acreage of proposed roads and road rights-of-way.
- (e) Proposed vehicular circulation system, including location of driveway entrances, roads, and on-site driveways.
- (f) Location of existing drainage courses, floodplains, lakes and streams, with elevations, and acreage of bodies of water.
- (g) Boundaries of all wetland areas, with sufficient dimensions between various points on the wetland boundary and buildings, property lines, or other features to allow accurate portrayal of the wetlands. The acreage shall be provided separately for all wetlands, and wetlands regulated by the State shall be identified. Wetlands staking and identification shall be done by a qualified wetlands expert (who must be approved by the Village). If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
- (h) Location of existing and proposed interior sidewalks and sidewalks in the road right-of-way.

- (i) Exterior lighting locations and method of shielding lights from shining off the site.
- (j) Trash and recycling receptacle locations and method of screening.
- (k) Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.
- (l) Landscape plan, including location, size, type and quantity of proposed shrubs , trees and other live plant material.
- (m) Location and description of all easements for public rights-of-way, utilities, access, shared access, and drainage.
- (n) Loading/unloading area.
- (o) The location of any outdoor storage of materials and the manner by which it will be screened.
- (p) Indicate locations of steep slopes.

**(4) Building and Structure Details.**

- (a) Location, height, and outside dimensions of all proposed buildings or structures.
- (b) Indication of the number of stores and number of commercial or office units contained in the building, if applicable. If the site plan involves an existing non-residential building, then a list of all tenants shall be provided. No new tenants shall be allowed to occupy the building until the site plan is fully implemented.
- (c) Total floor area.
- (d) Location, size, height, and lighting of all proposed signs.
- (e) Proposed fences and walls, including typical cross-section and height above the ground on both sides.
- (f) Building facade elevations, drawn to a scale of one (1) inch equals four (4) feet, or another scale approved by the Zoning Administrator and adequate to determine compliance with the requirements of this Ordinance. Elevations of proposed buildings shall indicate type and color of exterior building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers.

**(5) Information Concerning Utilities, Drainage, and Related Issues.**

- (a) Indication of site grading and drainage patterns.
- (b) Soil erosion and sedimentation control measures.
- (c) Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.

**(6) Information Concerning Residential Development.**

- (a) The number, type and location of each type of residential unit (one bedroom units, two bedroom units, etc.).

- (b) Density calculations by type of residential unit (dwelling units per acre).
- (c) Community building locations, dimensions, floor plans, and facade elevations, if applicable.
- (d) Location and size of recreation open areas.
- (e) Indication of type of recreation facilities proposed for recreation area.
- (f) If common area or community buildings are proposed, then the site plan should indicate the responsibilities of the subdivision or condominium association, property owners, or other public entity, with regard to maintenance of the common areas or community property on a continuing basis.

**(7) Information Applicable to Mobile Home Parks.**

- (a) Location and number of pads for mobile homes.
- (b) Distance between mobile homes.
- (c) Proposed placement of mobile homes on each lot.
- (d) Average and range of size of mobile home lots.
- (e) Density calculations (dwelling units per acre).
- (f) Lot coverage calculations.
- (g) Garage and Carport locations and details, if proposed.
- (h) Pedestrian circulation system.
- (i) Location and names of roads and internal drives.
- (j) Community building location, dimensions, floor plans, and facade elevations, if applicable.
- (k) Swimming pool fencing detail, including height and type of fence, if applicable.
- (l) Location and size of recreation open areas.
- (m) Indication of type of recreation facilities proposed for recreation area.

**(8) Additional Information.**

- (a) **Information Related to Condominium Development.** The following information shall be provided with all site plans involving condominium development:
  - (i) **Condominium** documents, including the proposed Master Deed, condominium Bylaws, and Condominium Subdivision Plan (Exhibit B).
  - (ii) **Condominium** subdivision plan requirements, as specified in the Condominium Rules promulgated by the Department of Licensing and Regulatory Affairs, Bureau of Commercial Services and Corporations, or successor agency.
- (b) **Items Not Applicable.** If any of the items listed are not applicable to a particular site, the following information should be provided on the site plan, or accompanying the site plan:

- (i) A list of each item considered not applicable.
- (ii) The reason(s) why each listed item is not considered applicable.

(c) **Other Data That May Be Required.** Other data may be required if deemed necessary by the Village administrative officials or Planning and Zoning Commission to determine compliance with the provisions in this Ordinance. Such information may include, but need not be limited to, traffic studies, market analysis, environmental assessment and evaluation of the demand on public facilities and services.

(E) **Standards for Site Plan Approval.** The following criteria shall be used as a basis upon which site plans will be reviewed and approved. The Planning and Zoning Commission shall approve a site plan ONLY if it conforms to all of the following standards.

- (1) **Adequacy of Information.** The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
- (2) **Site Design Characteristics.** All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this Ordinance.
- (3) **Compliance with District Requirements.** The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Schedule of Regulations unless otherwise provided in this Ordinance.
- (4) **Emergency Vehicle Access.** All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- (5) **Ingress and Egress.** Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public or private streets.
- (6) **Exterior Lighting.** Exterior lighting shall be designed so that it is focused downward and deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
- (7) **Public Services.** Adequate services and utilities, including water, sewage disposal, sanitary sewer, and stormwater control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development. All streets and roads, water, sewer, and drainage systems, and similar facilities shall conform to the design and construction standards of the Village or County, as appropriate.
- (8) **Screening.** Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public roads, shall be screened by walls or landscaping of adequate height and shall comply with Articles 10.00 and 11.00 of this Ordinance.
- (9) **Coordination with Adjacent Sites.** All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities, and open space shall be coordinated with adjacent properties.

## Section 14.05 Special Land Uses

- (A) **Intent.** The procedures and standards in this Section are intended to provide a consistent and uniform method for review of proposed plans for special land uses (sometimes also referred to as Special Uses). Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district. This Section contains standards for review of each special land use proposal individually on its own merits to determine if it is an appropriate use for the district and specific location where it is proposed.
- (B) **Procedures and Requirements.** Special land use proposals shall be reviewed in accordance with the procedures for site plan review, as follows:
- (1) **Public Hearing Required.** A public hearing shall be scheduled by the Village Administration and held by the Planning and Zoning Commission, with notice as required by the Michigan Enabling Act, before a decision is made on a special land use request.
  - (2) **Planning and Zoning Commission Action.** The Planning and Zoning Commission shall review the application for special land use together with the public hearing findings and reports and recommendations from the Zoning Administrator, Village Public Safety officials, and other reviewers. The Planning and Zoning Commission shall then make a recommendation to the Village Council regarding the proposed special land use, based on the requirements and standards of this Ordinance. The Planning and Zoning Commission may approve, approval with conditions, or deny the special land use application as follows:
    - (a) **Approval.** Upon determination by the Planning and Zoning Commission that the final plan for special land use is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning and Zoning Commission shall approve the special land use.
    - (b) **Approval with Conditions.** The Planning and Zoning Commission may impose reasonable conditions upon the approval of a special land use, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance.
    - (c) **Denial.** Upon determination by the Planning and Zoning Commission that a special land use proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Village, the Planning and Zoning Commission shall deny the special land use.
  - (3) **Recording of Action.** Each action taken with respect to a special land use shall be duly recorded in the minutes of the Planning and Zoning Commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for the action taken, and any conditions imposed in conjunction with approval.
  - (4) **Effect of Approval.** Upon approval, a special land use shall be deemed a conforming use permitted in the district in which it is proposed, subject to any conditions imposed and final approval of the site plan. Such approval shall affect only the lot or portion thereof on which the proposed use is located. Such approval shall remain valid regardless of change of ownership.

- (5) Zoning Board of Appeals Authority.** The Zoning Board of Appeals shall not have the authority to consider an appeal of a decision concerning a special land use proposal. The ZBA shall have the authority to consider variances associated with a special land use that relate to specific requirements of this Ordinance, but not to the approval or denial or imposition of conditions regarding the Special Use as a whole.
- (6) Application for a Building Permit.** Prior to issuance of a building permit, the applicant shall submit proof of the following:
- (a)** Final approval of the special land use application.
  - (b)** Final approval of the site plan.
  - (c)** Final approval of the engineering plans.
  - (d)** Acquisition of all other applicable Village, County, or State permits.
- (7) Expiration of Special Land Use Approval.** If construction has not commenced, or if the project has commenced but has not made reasonable progress within twelve (12) months after final approval, the approval becomes null and void and a new application for special land use approval shall be required. However, the applicant may apply in writing to the Planning and Zoning Commission for an extension of special land use approval. The Planning and Zoning Commission may grant one or more extensions of up to a total of twelve (12) months, upon request from the applicant prior to expiration of the previous approval and provided that it finds that the approved special land use plan conforms to current Zoning Ordinance standards.
- (8) Modification to Approved Special Land Use.** Special land use approval in accordance with provisions of this Section may subsequently be modified, subject to a revised application being submitted, including payment of a fee, which shall be equal to half the fee for the original approval, notice provided to the public as required for all Special Use applications, and subject to the following requirements:
- (a)** Modifications that do not change the nature of the use or that do not affect the intensity of use may be reviewed and approved following normal site plan review procedures. In evaluating change in intensity of use, the Planning and Zoning Commission shall consider the extent of increase of vehicular or pedestrian traffic, the change in demand for public services, extent to which the total floor area occupied by the proposed use will increase, increased demand for parking, off-site impacts from noise, fumes, drainage, etc., and similar considerations.
  - (b)** Modifications that change the nature of the use or that result in an increase in the intensity of the use shall be reviewed in the same manner as a new special land use proposal, following the procedures in this Section.
- (9) Special Land Use Violation.** In the event that construction or subsequent use is not in compliance with the approved special land use application, the Zoning Administrator or his/her designee shall take corrective action, unless a revised special land use application is submitted for Village review, following the normal special land use review procedures. If the builder, developer, or current user fails to take corrective action or pursue approval of an amended plan, the Zoning Administrator or his/her designee may issue a citation, after which the Village Council may commence and pursue appropriate action in a court having jurisdiction.
- (10) Performance Guarantee.** The Planning and Zoning Commission may require that a performance guarantee be deposited with the Village to ensure faithful completion of the improvements.



(C) **Standards for Granting Special Land Use Approval.** Approval of a special land use proposal shall be based on the determination that the proposed use will be consistent with the intent and purposes of this Ordinance, will comply with all applicable requirements of this Ordinance, and the following standards:

- (1) **Compatibility with Adjacent Uses.** The proposed special land use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
  - (a) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
  - (b) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - (c) The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
  - (d) The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
  - (e) Proposed landscaping and other site amenities. Additional landscaping over and above the requirements of this Ordinance may be required as a condition of approval of a special land use.
- (2) **Compatibility with the Master Plan.** The request satisfies the Goals, Objectives, narrative, and intent of the Village Master Plan.
- (3) **Public Services.** The proposed special land use shall be located so as to be adequately served by essential public facilities and services, such as highways, roads, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the special land use is established.
- (4) **Impact of Traffic.** The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. The width of streets shall be appropriate for the volume of traffic they will carry, based on Ionia County Road Commission standards. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points, construct a secondary access road, install traffic controls or signage, or otherwise modify the circulation plan.
- (5) **Detrimental Effects.** The proposed special land use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to persons or property or to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.
- (6) **Compatibility with Natural Environment.** The proposed special land use shall be compatible with the natural environment and conserve natural resources and energy.

## Section 14.06 Variances and Appeals

- (A) **Intent.** The purpose of this Section is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.
- (B) **Authority of the Zoning Board of Appeals.**
- (1) **General Authority.** The Zoning Board of Appeals (ZBA) shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have authority to authorize a variance as defined in this Ordinance and the laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance. The ZBA has no authority to grant variances to overturn decisions involving special land uses or planned unit developments. The Village Council may require fees to cover the reasonable costs of ZBA processes.
- (2) **Administrative Review.** The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board or commission in carrying out or enforcing any provisions of this Ordinance. Such appeal shall be requested by the applicant within 30 days of the date of the order, refusal, requirement, or determination being appealed.
- (a) In hearing and deciding appeals under this sub-section, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official, board or commission from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official, board or commission being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official, board or commission breached a duty or discretion in carrying out this Ordinance.
- (3) **Interpretation.** The ZBA shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance.
- (4) **Variances.** The ZBA shall have authority in specific cases to authorize one or more dimensional or "non-use" variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards.

- (a) The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist *and* that the need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. In determining whether practical difficulties exist, the ZBA shall consider the following factors:
  - (i) Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
  - (ii) As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome.
  - (iii) The unique circumstances do not result from the actions of the applicant, including the knowing purchase of a property limited by existing non-conformities.
  - (iv) The variance requested is the minimum variance which will make possible the reasonable use of the land, building or structure.
  - (v) The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety and welfare.
- (b) In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.
- (5) **Conditions.** The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. Conditions imposed shall meet the following requirements:
  - (a) Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - (c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- (6) Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.

**(C) Applications and Notices.**

- (1) **Application.** All applications to the ZBA shall be filed with the Village, on forms provided by the Village, and shall be accompanied by the applicable fee established by resolution of the Village Council. Applications shall include seven (7) individually folded copies and one (1) digital copy of all plans, studies and other information and data to be relied upon by the applicant. These materials shall be submitted to the Village no later than thirty (30) days prior to the Zoning Board of Appeals meeting at which the review is requested.

- (2) **Plot Plan.** A plot plan be required with all variance requests. The plan, which shall accompany all variance requests, shall be based on a mortgage survey or land survey prepared by a licensed land surveyor. The plan shall be to scale and shall include all property lines and dimensions, setbacks and all existing and proposed structures. .
- (a) The Zoning Board of Appeals has the authority to require a land survey prepared by a licensed land surveyor when the ZBA determines it to be necessary to ensure accuracy of the plan.
- (b) The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed, including relevant plans, studies and other information.
- (3) **Applications Involving an Appeal of Administrative Order.** In a case involving an appeal from an action of an administrative official or entity, the administrative official, or the clerk or secretary of the administrative entity, as the case may be, upon notice from the Zoning Department, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- (4) **Consent of Property Owner Required.** Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.
- (5) **Notice.** Notice of a public hearing concerning a request for a dimensional variance, interpretation of the zoning ordinance, or an appeal of an administrative decision shall be given as follows:
- (a) A notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Village and sent to the person requesting the interpretation not less than 15 days before the public hearing.
- (b) If the request for a dimensional variance, interpretation, or appeal involves a specific parcel, written notice stating the nature of the request and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- (6) **Stay of Proceedings.** An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.
- (7) **Decision by the Zoning Board of Appeals.** The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board, or commission made in the administration of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a "non-use" variance from the terms of this ordinance.

**(D) Disposition and Duration of Approval.**

- (1)** The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.
- (2) Decision Final.** A decision by the ZBA shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be deemed to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.
- (3) Period of Validity.** Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one (1) year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.
- (4) Record of Proceedings.** The Village administrative staff, under the supervision of the secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be within the ultimate authority, and shall be the responsibility, of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval.

  - (a)** The official records of the ZBA proceedings shall be filed in the Village Hall and shall be public records.
- (5) Appeal of a ZBA Decision.** Appeals of a ZBA decision shall be taken in the manner provided by law.
- (6) New Application for Variance.** If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to re-consideration for a period of one year, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to the original decision are found to be incorrect or inaccurate.

## **Section 14.07 Amendments**

- (A) Initiation of Amendment.** The Village Council may amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Michigan Public Act 110 of 2006, as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

(B) **Application for Amendment.** A petition for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property, shall be commenced by filing a petition on the forms provided by the Village and accompanied by the fees specified. The petition shall describe the proposed amendment and shall be signed by the applicant. Petitions for rezoning of a specific site shall be accompanied by a plot plan or survey, which shall contain the following information. These materials shall be submitted to the Village no later than noon thirty (30) calendar days prior to the Planning and Zoning Commission or Village Council meeting at which the review is requested.

- (1) Applicant's name, address, and telephone number.
- (2) Scale, north point, and dates of submittal and revisions.
- (3) Zoning classification of petitioner's parcel and all abutting parcels.
- (4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within fifty (50) feet of the site.
- (5) Proposed lot lines and lot dimensions, and general layout of proposed structures, parking areas, driveways, and other improvements on the site.
- (6) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys, both public and private.
- (7) General location of existing drainage courses, floodplains, lakes and streams, and woodlots.
- (8) All existing and proposed easements.
- (9) Location of sanitary sewer or septic systems, existing and proposed.
- (10) Location and size of water main, well sites, and building services, existing and proposed.
- (11) **Optional Conditional Rezoning (CR) Agreement:** A CR Agreement, which is voluntarily offered by the applicant (or designee), may be submitted. If submitted, the Agreement shall set forth the Rezoning Conditions, together with any other term mutually agreed upon by the parties, including the following terms:
  - (a) Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Village to grant the rezoning, and that the Village relied upon such proposal and would not have granted the rezoning but for the terms in the CR Agreement.
  - (b) Agreement and acknowledgement that the conditions and CR Agreement are authorized by all applicable state and federal laws and constitution, and that the CR Agreement is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Village.
  - (c) Agreement and understanding that the property in question shall not be developed or used in a manner that is inconsistent with the CR Plan and CR Agreement.
  - (d) Agreement and understanding that the approval and CR Agreement shall be binding upon and inure to the benefit of the property owner and the Village, and their respective heirs, successors, assigns, and transferees.
  - (e) Agreement and understanding that, if a conditional zoning expires in the manner provided in this Section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

- (f) Agreement and understanding that each of the requirements and conditions in the CR Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.
  - (g) Any other agreement voluntarily proposed by the applicant (or designee) that is consistent with all applicable state and federal laws and is agreed to by the Village.
- (C) **Review Procedures.** After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures:
- (1) **Planning and Zoning Commission Review.** The petition shall be placed on the agenda of the next regularly scheduled meeting of the Planning and Zoning Commission. The Planning and Zoning Commission shall review the petition for amendment in accordance with the procedures and public hearing and notice requirements set forth in Michigan Public Act 110 of 2006, as amended, and schedule a public hearing for the request on the next available Planning and Zoning Commission agenda.
  - (2) **Action by the Planning and Zoning Commission.** Following the hearing on the proposed amendment, the Planning and Zoning Commission shall make written findings of fact which it shall transmit to the Village Council, together with the comments made at the public hearing and its recommendations.
  - (3) **Action by the Village Council.** The Village Council may hold additional hearings if the Board considers it necessary, following the hearing and notice requirements of Michigan Public Act 110 of 2006, as amended. The Village Council may by majority vote of its membership adopt the proposed amendment, reject the proposed amendment, or refer the proposed amendment back to the Planning and Zoning Commission for further review and recommendation within a specified time period. Thereafter, the Village Council may either adopt the amendment with or without the recommended revisions, or reject it.
  - (4) **Review Considerations.** The Planning and Zoning Commission and Village Council shall at minimum, consider the following before taking action on any proposed amendment.
    - (a) Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
    - (b) Will the proposed amendment further the comprehensive planning goals of the Village as reflected in the Master Plan?
    - (c) Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the Zoning Ordinance that justifies the amendment?
    - (d) Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges?
    - (e) Will the amendment result in unlawful exclusionary zoning?
    - (f) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?
    - (g) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?

- (h) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?
  - (i) If a rezoning is requested, is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?
  - (j) Will the proposed amendment be consistent with the purposes of this Ordinance and, in particular, will the proposed amendment promote the public health, safety and welfare?
- (5) Notice of Record of Amendment Adoption.** Following adoption of an amendment by the Village Council, one notice of adoption shall be filed with the Village Clerk and one notice shall be published in newspaper of general circulation in the Village within fifteen (15) days after adoption, in accordance with Michigan Public Act 110 of 2006, as amended. A record of all amendments shall be maintained by the Village Clerk. A master Zoning Map shall be maintained by the Village, which shall identify all map amendments.
- (6) Effects of Approval of a Conditional Rezoning Agreement.** If a Conditional Rezoning Agreement has been approved, the use of property in question shall conform to all regulations governing development and use in the zoning district to which the property has been rezoned, subject to the following:
- (a) Development Subject to Conditional Rezoning Requirements.** Development and use of the property shall be subject to the more restrictive requirements specified on the CR Plan, in the Rezoning Conditions and in the CR Agreement, required as part of the Conditional Rezoning approval. Such requirements shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
  - (b) Site Plan Review and Other Approvals Required.** Approval of the CR Plan and Agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the CR Plan. Site plan, special land use, plat, and condominium approval, as appropriate, shall be required, pursuant to procedures in Article 14, prior to any improvements to the property.
    - (i) Any use or development proposed as part of any offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
  - (c) Recording and Publication of CR Agreement.** A conditional rezoning shall become effective following publication in the manner provided by law, and, after recordation of the CR Agreement, whichever is later.
- (D) Referendum.** Within thirty (30) days following the passage of the amendment, a petition signed by a number of qualified and registered voters as specified in Section 402 of Public Act 110 of 2006, as amended, may be filed with the Village Clerk requesting submission of an ordinance or part of an ordinance to the electors for their approval, in accordance with Section 402(2) of Michigan Public Act 110 of 2006, as amended.



## Section 14.08 Filing Fees

- (A) All applications shall be accompanied by a filing fee which shall be established by resolution of the Village Council, in accordance with Section 406 of Public Act 110 of 2006, as amended. This filing fee may include a deposit toward the costs of any consultants retained by the Village for reviewing the application, such as consulting planning services, consulting engineering services, legal services, court reporter services, or similar services. The filing fee and deposit shall be paid before the review process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the Ordinance shall suspend further review of the application.
- (B) Any deposit toward the cost of any consultants shall be credited against the expense to the Village of such consultants, which shall be fully charged to the applicant. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within 30 days of final action on the application.
- (C) A schedule of the current filing fees and deposit requirements shall be made available to anyone who requests it.
- (D) The assessment and payment of application fees does not affect the requirements for a performance guarantee.

## Section 14.09 Violations and Penalties

- (A) **Public Nuisance.** Buildings Erected, altered, razed or converted (including tents, mobile homes, and trailer coaches), or uses carried on in violation of any provision of this Ordinance are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.
- (B) **Violation Defined.** Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by the Zoning Administrator or other Enforcement Official shall be deemed in violation of this Ordinance.
- (C) **Penalties.** Any violation of this Ordinance shall constitute municipal civil infraction (as defined by Michigan Statute). The penalty for a municipal civil infraction shall be a civil fine determined in accordance with the following schedule:

	Fine
<b>1<sup>st</sup> Offense</b>	\$75.00
<b>2<sup>nd</sup> Offense</b>	150.00
<b>3<sup>rd</sup> Offense</b>	325.00
<b>4<sup>th</sup> Offense</b>	500.00
<b>Additional Offenses</b>	Fines increase by \$250 per offense.

- (1) In addition, the violator shall pay costs which may include all expenses, direct and indirect, which Village of Muir has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$25.00 be ordered.

(2) Upon notice of a violation, the appropriate Village employee shall investigate any violation and then make a determination as to whether the penalty shall be imposed. This municipal civil infraction ticket shall serve as notice of the alleged violation. The imposition of a municipal civil infraction fine for any violation shall not excuse the violation or permit it to continue. Further violations subject the owner or occupant, or person or persons, agent, firm, or corporation to subsequent municipal civil infraction violations.

(3) Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation, of the Ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator.

(4) The imposition of any sentence shall not exempt the offense from compliance with the requirement of this Ordinance.

(D) **Authority to Pursue Court Action.** The Village Council or its duly authorized representative is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court, or any other court having jurisdiction, to restrain or prevent any non-compliance with, or violation of, any of the provisions of this Ordinance, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such noncompliance or violation may institute a suit or join the Village Council in such a suit to abate the violation.

(E) **Other Remedies.** The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Village to initiate proceedings in an appropriate court of law to restrain or prevent any noncompliance with any provisions of this Ordinance, or to correct, remedy, or abate such non-compliance.

(F) **Rights and Remedies Preserved.** Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver or nor prevent any further prosecution of violations of this Ordinance.

## **Section 14.10 Records**

The Village shall keep accurate records of all decisions on all applications submitted pursuant to this Ordinance.

## **Section 14.11 Public Notice**

The Village shall ensure that any application process requiring a public hearing shall comply with the requirements of PA 110 of 2006, as amended, and the procedures of this Section.

(A) **Publication in a Newspaper of General Circulation.** Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.

(B) **Personal and Mailed Notice.**

- (1) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
- (2) Notice shall be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property, including the owners or occupants of structures located in adjacent cities or Villages. If the name of the occupant is not known, the term "occupant" may be used in making notification.
- (3) All notice delivered by mail or personal delivery must be given not less than fifteen (15) days before the date of the public hearing. Notice shall be deemed mailed by its deposit in the United States mail.
- (4) The Village shall prepare a list of property owners and occupants to whom notice was mailed or delivered.
- (5) **Content.** Any notice published in a newspaper or delivered by mail or personal delivery shall:
  - (a) Describe the nature of the request.
  - (b) Indicate the property that is the subject of the request.
  - (c) Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
  - (d) When and where the public hearing will occur.
  - (e) When and where written comments may be submitted concerning the request.

# Article 15 Administrative Organization

## Section 15.01 Overview

(A) The Village Council of Trustees or its duly authorized representative as specified in this Article is hereby charged with the duty of enforcing the provisions of this Ordinance. Accordingly, the administration of this Ordinance is hereby vested in the following Village entities:

- (1) Village Council of Trustees
- (2) Village Planning and Zoning Commission
- (3) Zoning Board of Appeals
- (4) Zoning Administrator

(B) The purpose of this article of the Zoning Ordinance is to set forth the responsibilities and scope of authority of these entities.

## Section 15.02 Village Council

The Village Council shall have the responsibilities granted to it by the Michigan Planning Enabling Act (Public Act 33 of 2008, as Amended) and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as Amended), as well as the powers explicitly granted to it in this Ordinance.

(A) **Setting of Fees.** By resolution, the Village Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance.

## Section 15.03 Village Planning and Zoning Commission

The Village Planning and Zoning Commission shall have the following responsibilities and authority pursuant to this Ordinance.

(A) **Creation.** The Village Planning and Zoning Commission was created pursuant to Michigan Public Act 33 of 2008, as amended, the Michigan Planning Enabling Act, and Village Ordinance. The Planning and Zoning Commission will continue to operate under the jurisdiction of those Acts.

(B) **Membership and Operation.** Members of the Planning and Zoning Commission shall be appointed by the Village Supervisor with the approval of the Village Council of Trustees. The qualifications of members, the term of each member, filling of vacancies, removal of members, compensation of members, and operation of the Planning and Zoning Commission shall be in accordance with Michigan Public Act 33 of 2008, as amended, and Village Ordinance.

- (1) The Planning and Zoning Commission by resolution shall determine the time and place of meetings. A special meeting may be called by either two (2) members upon written request to the secretary, or by the chairperson. The Planning and Zoning Commission shall adopt by-laws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

(C) **Jurisdiction.** The Planning and Zoning Commission shall have the responsibilities granted to it by the Michigan Planning Enabling Act (Public Act 33 of 2008, as Amended) and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as Amended), as well as the powers explicitly granted to it in this Ordinance.

- (1) **Report on Operation of the Zoning Ordinance.** In accordance with Section 308(2) of Michigan Public Act 110 of 2006, as amended, the Planning and Zoning Commission shall periodically prepare for the Village Council of Trustees a report on the operations of the Zoning Ordinance including recommendations as to the enactment of amendments or supplements to the Ordinance.

- (2) **Capital Improvements Plan.** In accordance with Section 65(1) of Michigan Public Act 33 of 2008, as amended, the Planning and Zoning Commission, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements.

## **Section 15.04 Zoning Board of Appeals**

The Village Zoning Board of Appeals (hereinafter referred to as "ZBA") is created pursuant to Michigan Public Act 110 of 2006, as amended.

- (A) **Membership and Operation.** The ZBA shall consist of five (5) members who shall be appointed in accordance with Section 601(3) of Michigan Public Act 110 of 2006, as amended, as follows:
- (1) Members of the Zoning Board of Appeals shall be appointed by a majority vote of the Village Council.
  - (2) The first member shall be a member of the Planning and Zoning Commission, as appointed by the Village Council.
  - (3) The remaining members (including any alternate members) shall be electors of the Village and shall be representative of the population distribution and of the various interests present in the Village.
  - (4) Of the remaining members, one shall be a member of the Village Council.
  - (5) No employee or contractor of the Village may be a member or employee of the Board of Appeals. No Village Council member may serve as chairman of the Board of Appeals.
  - (6) The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the ZBA shall be in accordance with Michigan Public Act 110 of 2006, as amended. The ZBA shall not conduct business unless a majority of the members of the Board are present.
  - (7) The Village Council may appoint up to 2 alternate members for the same term as regular members to the ZBA. An alternate member may be called to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the ZBA.
- (B) **Meetings.** Meetings of the ZBA shall be held in accordance with an adopted schedule, or at the call of the Chairperson, or at such other times as the ZBA may specify in its bylaws. The ZBA shall state the grounds of each determination, and shall maintain a record of its proceedings, which shall be filed in the office of the Village Clerk.

## **Section 15.05 Zoning Administrator**

- (A) **Overview.** As specified throughout this Ordinance, certain actions necessary for the implementation of this Ordinance shall be administered by the Zoning Administrator/Zoning Administrator, or their duly authorized assistants, agents, or representatives. In carrying out their designated duties, all such enforcement officers shall administer the Ordinance and shall not make changes or vary the terms of the Ordinance.

(B) **Responsibilities of the Zoning Administrator and/or Zoning Administrator.** In addition to specific responsibilities outlined elsewhere in this Ordinance, the Zoning Administrator and/or Zoning Administrator or his/her duly authorized assistants or agents shall have the following responsibilities. The roles of Zoning Administrator and/or Zoning Administrator shall include:

- (1) Provide citizens and public officials with information relative to this Ordinance and related matters.
- (2) Assist applicants in determining and completing appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.
- (3) Review and investigate permit applications to determine compliance with the provisions of the Zoning Ordinance.
- (4) Issue appropriate permits upon compliance with provisions of this Ordinance and other applicable ordinances.
- (5) Perform inspections of buildings, structures, and premises to insure proposed land use changes or improvements are in compliance with this Ordinance.
- (6) Investigate alleged violations of this Ordinance and enforce appropriate corrective measures when required, including issuance of violation notices, citations, issuance of orders to stop work, and revoking of permits.
- (7) Perform other related duties required to administer this Ordinance.
- (8) Maintain records as accurately as is feasible of all nonconforming uses, structures, and lots existing on the effective date of this Ordinance, and update this record as conditions affecting the nonconforming status of such uses changes.

## **Section 15.06 Performance Guarantee**

(A) **Intent and Scope of Requirements.**

- (1) To ensure compliance with the provisions of this Ordinance and any conditions imposed thereunder, the Planning and Zoning Commission, Zoning Board of Appeals, or Village Council may require that a performance guarantee be deposited with the Village to insure faithful completion of improvements, in accordance with Section 505 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
- (2) Improvements for which the Village may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, driveways and parking, acceleration/deceleration lanes, traffic control devices, sidewalks, completion of construction in a timely fashion, wetlands disturbance, and land reclamation activities.

(B) **General Requirements.** The performance guarantee shall meet the following requirements:

- (1) The performance guarantee shall be in the form of an insurance bond, an irrevocable bank letter of credit, or cash escrow. Any such performance guarantee shall not have an expiration date and shall include a provision that calls for notification of the Village if the bond is canceled. If the applicant posts a letter of credit, the credit shall require only that the Village present the credit with a sight draft and an affidavit signed by the Village Supervisor attesting to the Village's right to draw funds under the credit. The escrow funds shall be delivered directly to the Village for deposit.

- (2) The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. If appropriate, based on the type of performance guarantee submitted, the Village shall deposit the funds in an interest-bearing account in a financial institution with which the Village regularly conducts business.
  - (3) The amount of the performance guarantee shall be 125% of the estimated cost of the improvements for which the performance guarantee is required. The applicant shall provide an itemized schedule of estimated costs to complete all such improvements. The exact amount of the performance guarantee shall be determined by the Zoning Administrator.
  - (4) The entire performance guarantee shall be returned to the applicant following inspection by the Zoning Administrator and a determination that the required improvements have been completed satisfactorily. The performance guarantee may be released to the applicant in proportion to the work completed on various elements, provided that a minimum of ten percent (10%) shall be held back on each element until satisfactory completion of the entire project.
  - (5) An amount not less than ten percent (10%) of the total performance guarantee may be retained for a period of at least one year after installation of landscape materials to insure proper maintenance and replacement, if necessary. This amount shall be released to the applicant upon certification by the Zoning Administrator, or his/her designee, that all landscape materials as defined in Article 10 are being maintained in good health and condition.
- (C) **Unsatisfactory Completion of Improvements.** Whenever required improvements are not installed or maintained within the time stipulated or in accordance with the standards set forth in this Ordinance, the Village may complete the necessary improvements itself or by contract to an independent developer, and assess all costs of completing said improvements against the performance guarantee. Prior to completing said improvements, the Village shall notify the owner, site plan review applicant, or other firm or individual responsible for completion of the required improvements.

# Article 16 Rules of Language

## Section 16.01 Rules of Language

The following rules of language apply to the text of this Ordinance:

- (A) The particular shall control the general.
- (B) Words used in the present tense shall include the future, unless the context clearly indicates the contrary.
- (C) Words used in the singular number shall include the plural; and words used in the plural shall include the singular, unless the context clearly indicates the contrary.
- (D) Terms referred to in the masculine gender include the feminine and neuter.
- (E) The word **shall** is always mandatory and not discretionary; the word **may** is permissive and discretionary.
- (F) The word build includes the words **erect** and **construct**.
- (G) The word building includes the word structure. A building or structure includes any part thereof.
- (H) The words **include or including** shall mean including but not limited to.
- (I) The phrase **such as** shall mean such as but not limited to.
- (J) The phrase **used for** includes arranged for, designed for, intended for, occupied for, and maintained for.
- (K) The word **person** includes an individual, firm, association, organization, private or public corporation, partnership or co-partnership, a limited liability company, incorporated or unincorporated association, trust, or any other entity recognizable as a person under the laws of the State of Michigan.
- (L) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction **and**, **or**, or **either/or**, the conjunction shall be interpreted as follows:
  - (1) **And** indicates that all the connected items, conditions, provisions, or events shall apply.
  - (2) **Or** indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
  - (3) **Either/or** indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.
- (M) All measurements shall be to the nearest integer, unless otherwise specified herein.



- (N) Unless otherwise stated, the word **day** shall mean a calendar day; **month** shall mean any consecutive period of 30 calendar days; and **year** shall mean any consecutive period of 365 calendar days.
- (O) Unless the context clearly indicates the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustration.
- (P) The term **residential districts** includes the A and N Districts.
- (Q) In the event that a word or phrase is not defined in this Ordinance, the Village, including its board and commissions, shall use the definition as stated in the Village Clerk's copy of Webster's *New World Dictionary*.

# Article 17 Definitions

## Section 17.01 Definitions

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Words or terms not herein defined shall have the meaning customarily assigned to them. Definitions of uses in the Table of Permitted Uses in Article 3 are defined in Article 5.

**Accessory Use, Accessory Building, or Accessory Structure:** A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot (unless otherwise specifically permitted) as the principal use to which it is related.

**Accessory Dwelling Unit:** A second dwelling unit associated with the principal dwelling which cannot be sold or leased separately from the principal dwelling unit.

**Animal:** Any member of the kingdom Animalia, other than humans.

**Architectural Feature:** An integral element of a building that does not contain any discernable message.

**Artwork:** Any decorative element that is not integral to a building and does not contain an immediately discernable message.

**Applicant.** The property owner, or a person acting with the written and signed authorization of the property owner to make application under this Ordinance.

**Basement:** That portion of a building which is partially or totally below grade, but is so located that the vertical distance from the average grade to the floor below is greater than the vertical distance from the average grade to the ceiling. This definition shall not apply to earth-sheltered homes. A 'basement' shall not be counted as a story (see illustrations on pages 225 and 250).

**Bed Room:** A room designed or used in whole or part for sleeping purposes.

**Block:** The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Village, or any other barrier to the continuity of development.

**Building:** Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall not include such structures as signs, fences, or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, or similar structures.

(a) **Building, Permanent:** A building which is permanently affixed to the ground with footings or a foundation and/or is permitted to exist for an indefinite period of time exceeding six (6) months.

(b) **Building, Temporary:** A building which is not permanently affixed to the ground and is permitted to exist for a specific reason for a specific period of time, such as during a construction project.

**Building, Accessory:** See Accessory Use, Building, or Structure.

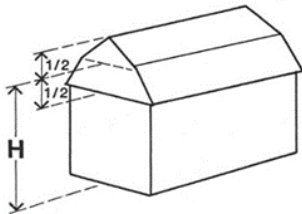
**Building, Principal:** A permanent building or, where the context so indicates, a group of permanent buildings (such as a school or office campus) which are built, used, designed or intended for the shelter or enclosure of the principal use of the parcel.

**Building height:** The vertical distance measured from the established grade to the following. Ventilators, chimneys, and antennae shall be not be considered part of the Building Height for purposes of this Ordinance.

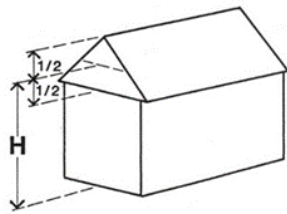
- (a) The highest point of the coping or parapet of a flat roof;
- (b) The deck line of a mansard roof; or,
- (c) The average height between the eaves and the ridge for a gable, hip, studio (shed), or gambrel roof (if the eaves are not even, then the height shall be the average height between the highest eave and the peak of the roof); or
- (d) Seventy-five percent of the height of an A-frame.

### Building Height

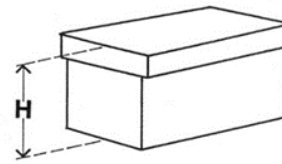
H = Height of building



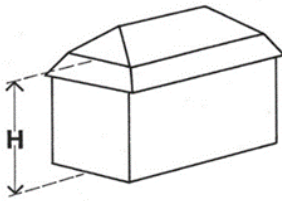
Gambrel Roof



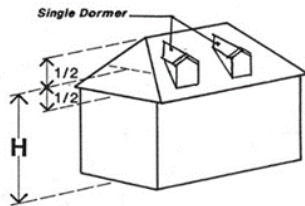
Gable Roof



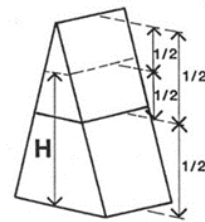
Flat Roof



Mansard Roof

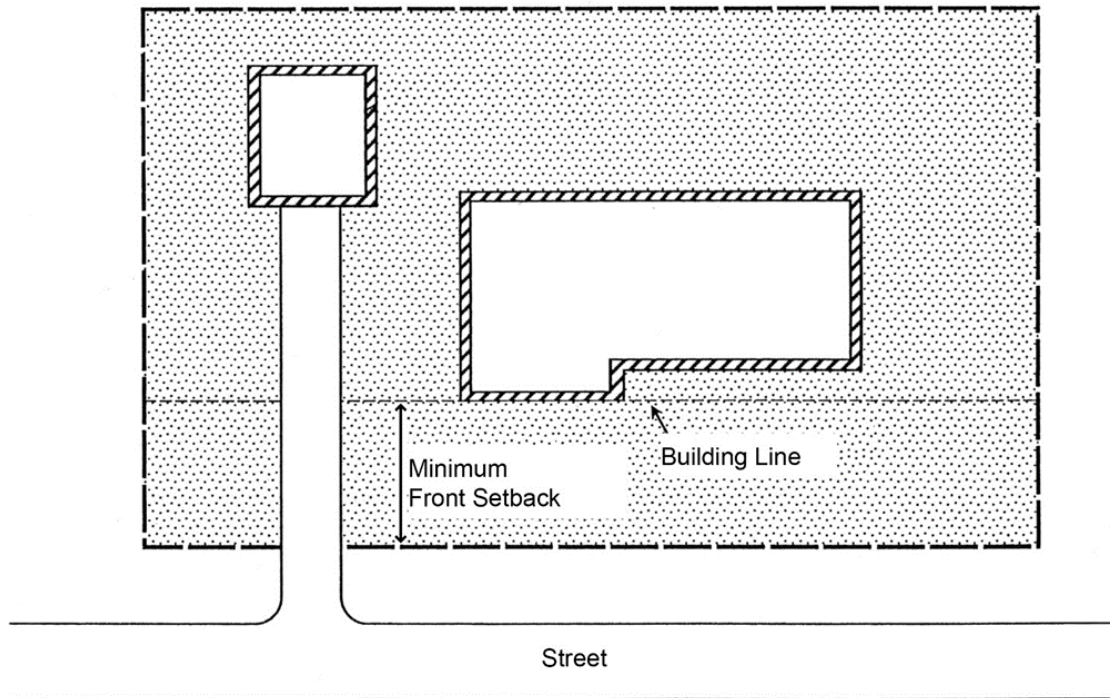


Hip Roof



"A"-Frame

## Building Line



**Building Line:** A line parallel to the front lot line at the minimum required front setback line.

**Bulb (or Lamp):** The source of electric light (to be distinguished from the whole assembly, which is called the luminaire). “Lamp” is often used to denote the bulb and its housing.

**Bulk:** The term used to indicate the size and setbacks of buildings and structures, including standards for the height and area of buildings; the location of exterior walls in relation to the lot lines, streets, and other buildings; gross floor area of buildings in relation to lot area; open space; and, the amount of lot area required for each dwelling unit.

**Colocation.** The location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the intent to reduce the total number of structures required to support wireless communication antennas in the Village.

**Commercial use:** The use of property for retail sales or similar businesses where goods or services are sold or provided directly to the consumer. As used in this Ordinance, ‘commercial use’ shall not include industrial or manufacturing businesses.

**Deck:** A raised platform, commonly constructed of wood, which does not have a roof and is typically attached to or abuts a house and used for outdoor leisure activities.

**Density (Residential):** The number of dwelling units per acre of land.

**Detention Basin:** A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A detention basin may drain completely after a storm event, or it may be a body of water with a fixed minimum and maximum water elevation between runoff events. See also Retention Basin

**Development:** The construction of a new building, reconstruction of an existing building, or improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

**District, Zoning:** A portion of the Village within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established.

**Driveway:** A private lane, designed primarily for use by vehicles, which connects a house, garage, or other buildings with the road.

**Dwelling Units:** Any building, or part thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by a single family. In no case shall a detached or attached accessory structure, travel trailer, motor home, vehicle, tent, or other temporary structure or vehicle be considered a 'dwelling'.

**Easement:** A right, created by an express or implied agreement, of one owner of land to make lawful and beneficial use of the land of another. A public easement is any easement enjoyed by the public in general, e.g., the right of the passage of the public over the surface of streets, alleys, highways, etc.

**Enforcement Official:** The Enforcement Official is the person or persons designated by the Village as being responsible for enforcing and administering requirements of this Zoning Ordinance. Throughout this Ordinance the Enforcement Official may be referred to as the Zoning Administrator, Zoning Administrator, Public Safety official, or their agents. Such titles do not necessarily refer to a specific individual, but generally the office or department most commonly associated with the administration of the regulation being referenced.

**Erected:** Any physical change on a site, including construction, reconstruction, or alteration of buildings or structures thereon. Excavation, fill, drainage, and the like shall be considered part of 'erection.'

**Essential Services:** The term "Essential Services" means the erection, construction, alteration or maintenance by public utilities or Village of Muir departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings *except those expressly referred to herein*), reasonably necessary for the furnishing of adequate service by such public utilities or Village of Muir departments or commissions or for the public health or safety or general welfare. This definition does not include towers or other buildings or structures intended specifically to service commercial wireless telecommunications such as cellular, personal communications services, specialized mobilized radio, enhanced specialized mobile radio, paging and similar services. This definition also does not include sales or business offices and commercial buildings or activities.

**Exception:** An exclusion from the normal Zoning Ordinance rules and regulations for the purposes of permitting particular uses or structures which are considered essential or appropriate in certain locations or under certain conditions. A variance is not required for uses or structures which are permitted because of an exception.

**Family:** A collective number of individuals domiciled together in one dwelling whose relationship is of a permanent and distinct domestic character, with a demonstrable and recognizable bond characteristic of a cohesive unit, and who are in fact cooking and living as a single nonprofit housekeeping unit.

**Family Daycare Home:** A private home in which one but not more than six children are received for child day care, including a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

**Farm:** The term “farm” shall have definition given to it in the Michigan Right to Farm Act. At the time of the adoption of this Ordinance, that definition was as follows: The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

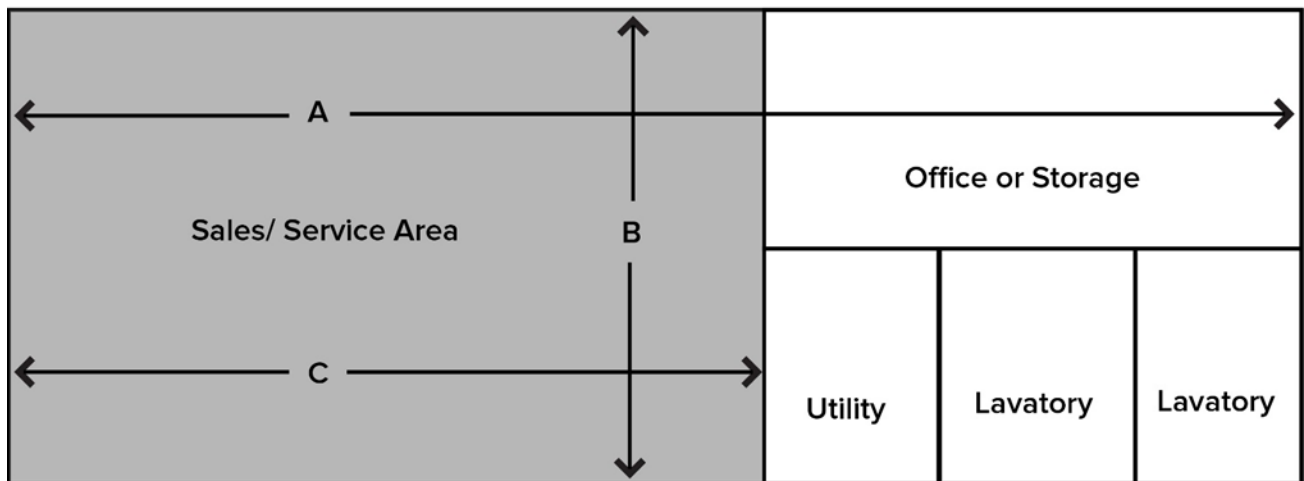
**Footcandle:** Illuminance produced on a surface one foot from a uniform point source of one candela or when one lumen is distributed into an area of one square foot.

**Fence:** An artificially constructed barrier of wood, wire, metal or any other manufactured material or combination of materials, used to prevent or control entrance, confine within, or mark a boundary. Plant material shall always be considered landscaping, not a fence.

**Floodplain:** Any land area susceptible to being inundated by floodwaters when high amounts of precipitation are experienced or natural cyclic conditions raise the water levels.

**Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage, measured from the exterior faces of the exterior walls.

## Floor Area Terminology



Gross Floor Area = A x B  
 Useable Floor Area = B x C

**Note on Graphic:** All Dimensions measured to exterior faces of exterior walls.

**Floor Area, Net:** See *Floor Area, Usable Residential*, and *Floor Area, Usable Nonresidential*.

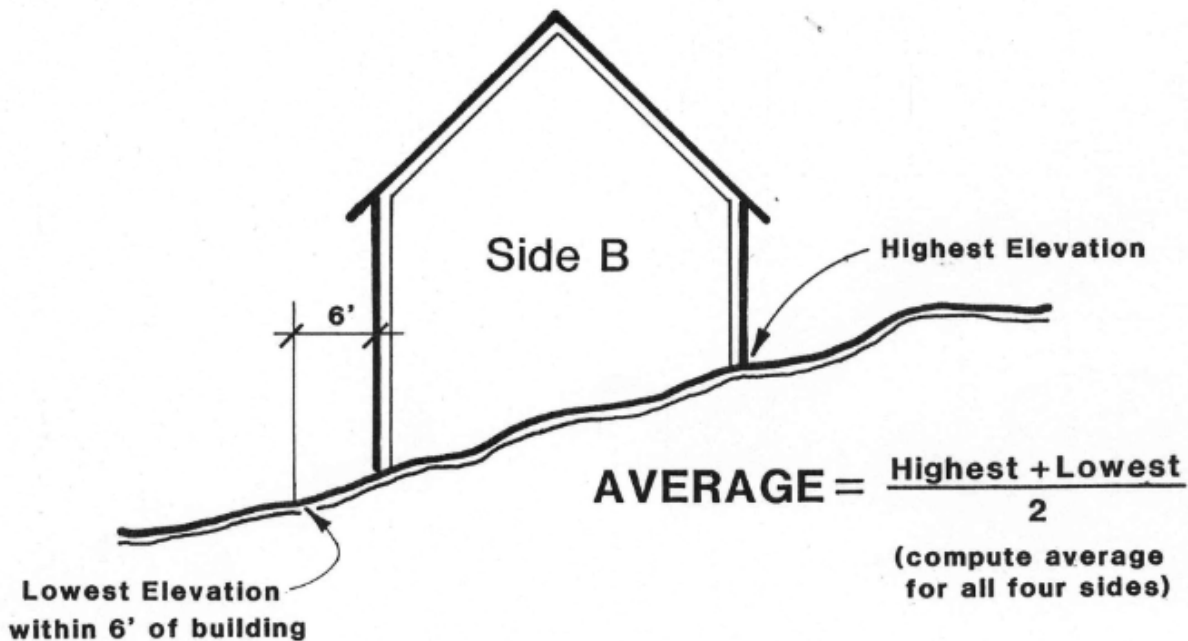
**Floor Area, Usable Residential:** The gross floor area minus areas in basements, unfinished attics, attached garages, and enclosed or unenclosed Porches.

**Floor Area, Usable Nonresidential:** The gross floor area, minus the area used for or intended to be used for storage, hallways, vestibules, elevators, stairs, mechanical equipment, sanitary facilities or for utilities (see illustration).

**Garage or Yard Sale:** A temporary retail use located on a lot otherwise used for residential purposes.

**Garbage:** Discarded items, including but not limited to organic refuse and rejected food waste; ashes, i.e. the residue left from burning of paper, leaves, weeds, wood and coal; kitchen rubbish, i.e. all types of food containers and wrappings, including cans, bottles, jars, broken glass, crockery, paper, plastic, wood and metal objects; household rubbish, i.e. all types of household materials commonly discarded such as newspapers, magazines, books, wrappings, cartons, boxes, crates, excelsior, rags, clothing, bedding, floor covering, wallpaper, leather objects and sweepings.

**Grade:** The term 'grade' shall mean the ground elevation established for the purpose of regulating the number of stories or height of a building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the highest point adjacent to the building and the lowest point within six feet of the building. The Zoning Administrator shall be the entity responsible for determining the grade and determining compliance with this Ordinance.



**Group Daycare Home:** A private home in which more than six but not more than 12 minor children are received for child day care, including a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

**Home Based Business:** An occupation or profession undertaken entirely within a dwelling unit by one or more resident occupants of that dwelling unit. A "home based business" must be clearly secondary to the use of the dwelling unit for residential purposes.

**Ingress and Egress:** As used in this Ordinance, 'ingress and egress' generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk which allows pedestrians to enter or leave a parcel of property, a building, or another location.

**Kennel, Boarding:** Any lot or premises where five or more dogs or cats over six months of age are boarded and/or trained for compensation.

**Kennel, Breeding:** Any lot or premises where five or more dogs or cats over six months of age are owned, kept, or harbored for the purpose of breeding for commercial gain.

**Kitchen:** Any room principally used, intended, or designed to be used for cooking or the preparation of food. The presence of a range or oven, or gas utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen – any room with these shall be considered a kitchen, and any room without shall not be considered a kitchen.

**Loading Space, Off-Street:** An off-street space which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**Lot:** A tract of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A 'lot' may or may not be specifically designated as such on public records.

**Lot Area, Net:** The portion of the gross lot area excluding private and public road rights-of-way and area of any ponds, lakes or permanently submerged lands in excess of one (1) acre in size. The 'net lot area' shall be used in determining compliance with Minimum Lot Area standards.

**Lot Area, Gross:** The total area of land contained within the boundaries of a lot.

**Lot, Contiguous:** Lots adjoining each other.

**Lot, Corner:** A lot abutting on and at the intersection of two or more streets, provided that the streets intersect at an angle of not more than 135 degrees. For the purposes of this definition, the 'street lot line' shall be the line separating the lot from the street or road right-of-way.

Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than 135 degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above (see illustration in definition of Lot Width). A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.

**Lot Depth:** The horizontal distance between the front lot line and rear lot line, measured along the median between the side lot lines.



**Lot, Double Frontage (or Through Lot):** A lot, other than a corner lot, having frontage on two streets. In the case of a row of double frontage lots, one street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing building in the same **block** fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

**Lot, Interior:** Any lot, other than a corner lot, with only one lot line fronting on a street.

**Lot Lines:** The lines bounding a lot as follows:

**Front Lot Line:** The line separating said lot from the public or private road right-of-way. In the case of a corner lot or double frontage lot, the 'front lot line' shall be that line that separates said lot from the right-of-way for the road which is designated as the front on the plat, or which is designated as the front on the site plan review application or request for a building permit.

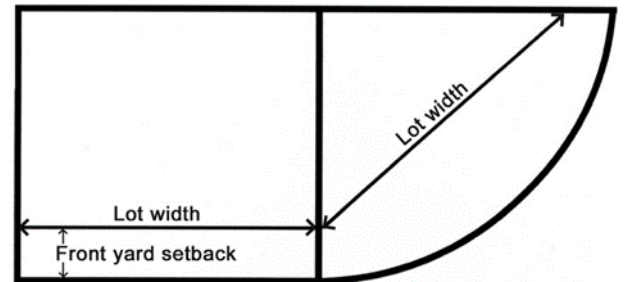
**Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge-shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, 10 feet in length, lying farthest from the front lot line and wholly within the lot.

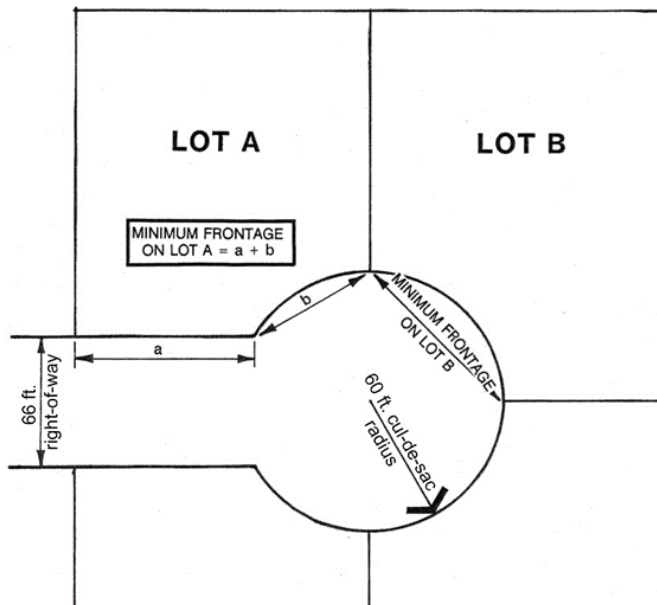
**Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a road right-of-way is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Waterfront Lot Line:** Any lot line that abuts Lake Michigan or an inland body of water, regardless of whether the lot line meets the definition of Front, Rear, or Side Lot Line.

**Lot of Record:** A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Ionia County Register of Deeds and Village Treasurer, or a **Lot** or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor registered and licensed in the State of Michigan and is recorded with the Ionia County Register of Deeds and Village Treasurer.

**Lot Width:** The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines..





**Lot Split or Lot Consolidation:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Ionia County Register of Deeds and the Village Treasurer.

**Manufactured Housing:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- (a) The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- (b) The structure is designed to be transported to the site in a nearly complete form, where it is placed and attached to a foundation consisting of an approved crawl space or basement and connected to utilities; and
- (c) The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building that complies with Michigan Building and Energy codes.

**Marihuana Establishment:** That term defined in the Village of Muir Commercial Marihuana Establishment Ordinance, Ordinance 59, as amended.

**Master Plan:** The most recent Master Plan document adopted by the Village Council, in accordance with the Michigan Planning Enabling Act.

**Multiple Family Housing (or Multi-Family Housing):** A building or complex of multiple buildings comprising more than one dwelling unit on a single parcel or tract of land. Buildings or complexes designed for senior housing, but not including assisted living, shall be considered “multiple family housing” for purposes of this Ordinance. Facilities consistent with the definition of “Manufactured Housing Park” shall not be considered “Multiple Family Housing”.

**Municipality:** Village of Muir, Ionia County, Michigan.

**Natural Resources:** Natural resources shall include land, soils, wetlands, floodplains, surface and ground water, topography, trees and other types of vegetative cover, subsurface strata, geologic formations, animal life, and naturally occurring substances and living organisms that can be useful to people. Natural resources are of two types: renewable (e.g., plants and trees) and nonrenewable (e.g., mineral resources). Natural resources may also be referred to as 'natural features' in this Ordinance.

**Nonconformity:** Any structure, lot, or use of any lot, land or structure, which does not conform at the time of adoption of this Ordinance or any amendment thereto, to the regulations for the district in which it is located. Additionally, for the purposes of non-conformities, the following terms shall have the following definitions:

**Effective Date.** Whenever this article refers to the "effective date," the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendments created a nonconforming situation.

**Nonconforming Building or Nonconforming Structure.** A building, structure, or portion thereof that does not meet the limitations on building size, location on a lot, or other regulations for the district in which such building or structure is located.

**Nonconforming Lot.** A lot existing at the effective date of this Ordinance, or amendments thereto, that does not meet the minimum area or dimensional requirements of the district in which the lot is located.

**Nonconforming Sign.** A sign that on the effective date of this Ordinance does not conform to one or more regulations set forth in the Ordinance.

**Nonconforming Use.** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

**Structural Nonconformity.** A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and other buildings or lot lines, does not conform to the standards of the district in which the property is located. Also sometimes referred to as a *Dimensional Nonconformity*.

**Nuisance:** Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. 'Nuisance' commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endangers life and health.

**Occupancy, Change of:** A discontinuance of an existing use, as defined by the Michigan Building Code, and the substitution of a use of a different kind or class, or, the expansion of a use.

**Occupied:** Used in any way at the time in question.

**Open Space:** Any parcel or area of land or water that is generally free of structures and that is set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. 'Open space' may be required for recreation, resource protection, aesthetics, or other purposes.

**Open Space, Usable: Open Space** that is accessible to a majority of residents in a development for recreation or leisure activities. Examples of 'usable open space' include, but are not limited to, open fields and woodlands. Swamps or marshes are not generally considered usable open space, except as specifically exempted elsewhere in this Ordinance.

**Ordinary High-Water Mark (OHWM):** “Ordinary High Water Mark”, as used in this Ordinance, shall have the definition given to it by the State of Michigan for the body of water in question.

**Parcel:** A continuous area, tract, or acreage of land that has not been subdivided according to the provisions of the Subdivision Control Act and that has frontage on a public or private street.

**Parking Lot, Off-Street:** An area on private property that provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three vehicles.

**Parking Space:** An area of definite length and width as designated in this Ordinance for parking a vehicle and which is fully accessible for such purposes.

**Performance Guarantee:** A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications of the development.

**Planning and Zoning Commission:** The Planning and Zoning Commission of Village of Muir.

**Plat, Subdivision:** The division of a tract of land for the purpose of sale, lease or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended, or any successor thereto, and subdivision control regulations as may be adopted by the Village.

**Pond, Detention:** A low lying area that is designed to temporarily hold a set amount of water while slowly draining to another location.

**Pond, Retention:** A low lying area that is designed to hold a set amount of water indefinitely.

**Porch:** A raised platform with or without railings and covered by a roof, which is attached to a building but is outside of its enclosing walls .. A Porch without a roof is considered a “Deck” for the purposes of this Ordinance.

**Property Line:** The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from adjacent parcels. See also Lot line.

**Public Utility:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish under federal, state, or local regulations a service which is of public consequence and need. The principal distinctive characteristics of a public utility are that: (1) because of the nature of its business, it has characteristics of a natural monopoly, and (2) it provides a service to an indefinite public (or portion of the public) which has a legal right to demand and receive its services.

**Real Property:** Includes the surface, whatever is attached to the surface (such as buildings or trees), whatever is beneath the surface (such as minerals), and the area above the surface, i.e., the sky.

**Reception Antenna:** An apparatus installed out-of-doors which is capable of receiving communications for radio and/or television purposes, including satellite reception antennas, but excluding such facilities that have been preempted from Village regulation by applicable state or federal laws or regulations.

**Recreational Vehicle:** A class of vehicle which shall include the following:

Travel Trailer: A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

Pickup Camper: A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.

Motor Home: A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

Folding Tent Trailer: A folding structure, mounted on wheels and designed for travel and vacation use.

Boats, Boat Trailers: Boats, floats, rafts, canoes, etc., plus the normal equipment used to transport them on the highway.

Other Recreational Equipment: Snowmobiles, all terrain or special terrain vehicles, utility trailers, etc., plus the normal equipment to transport them on the highway.

Park Model: Vehicles designed to look like a permanent dwelling unit.

**Rezoning.** The amendment of this Ordinance to change the Zoning Map classification on property from its existing district to a new district classification.

**Right-of-Way:** The strip of land over which an easement exists to allow facilities such as streets, roads, highways, and power lines to be built.

**Road or Street:** Any public or private thoroughfare or Right-of-Way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel whether designated as a thoroughfare, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation. Various types of roads are defined as follows:

**Private Road or Street:** Any Road or Street that is privately maintained and has not been accepted for maintenance by the Ionia County Road Commission, the State of Michigan or the federal government, but is subject to approval by the Village.

**Public Road or Street:** Any Road or Street or portion thereof which has been dedicated to and accepted for maintenance by the Ionia County Road Commission, State of Michigan or the federal government. For the purposes of funding, public roads are classified as either County Primary Roads or County Local Roads, pursuant to Michigan Public Act 51 of 1951, as amended. The County Primary Roads are those selected by the board of county road commissioners and certified to the Michigan Department of Transportation as being of greatest general importance to the county. All roads not included in the County Primary system shall constitute and be the County Local Road system.

**Roof Line:** The top edge of a roof or Building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

**Room:** For the purpose of determining lot area requirements and density in a multiple family development, a room is a living room, dining room or bed room, equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**Semi-Trailer:** A trailer, which may or may not be enclosed, having wheels generally only at the rear and supported in front by a truck tractor or towing vehicle.

**Setback:** The horizontal distance between any lot line and the nearest part of a structure on a lot. The 'minimum required setback' is the minimum distance between a front, side or rear lot line and the nearest part of a structure in order to conform to the required yard setback provisions of this Ordinance (see Yard).

**Sign:** Any device, structure, fixture, or placard which uses words, numbers, figures, graphic designs, logos or trademarks for the purpose of informing or attracting the attention of persons. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk alley, park, or public property, but not signs which are primarily directed at persons within the premises upon which the sign is located.

**Accessory Sign:** An on-premises sign which pertains to the use of the premises on which it is located.

**Animated Sign:** A sign that uses lights, moving parts, or other means to depict action, create an image of a living creature or person, or create a special effect or scene.

**Awning or Canopy Sign:** A sign which is made of non-rigid material such as heavy canvas that is supported by a framework, which is attached to a building's substrate. An awning sign extends outward from the building and so provides shaded cover and protection from weather for customers and pedestrians.

**Balloon Sign:** A balloon sign is an inflatable device, regardless of size, that is designed for use as an on-premises advertising device for a commercial promotional event.

**Banner Sign:** A sign made of fabric, cloth, paper, or other non-rigid material.



**Banner Sign**

**Billboard:** A sign over 72 square feet in area and separate from a premises, erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located.

**Changeable Copy Sign (Manual):** A sign which has a reader board for the display of

information (e.g., text, alphanumeric characters, graphics or symbols) which is changed manually.

**Directional Sign:** An on premise sign which is located and sized in a manner to safely and efficiently direct the flow of vehicular and pedestrian traffic to, from, and within a development site.

**Electronic Display Signs:** A sign that uses changing lights to form a sign message or messages in text or graphic or video display form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic process.

**Feather Sign:** A feather banner is a type of banner sign comprised of a metal or plastic frame, pole, and/or base to which a vinyl, nylon, canvas or polyester fabric sign face is attached (see illustration).



**Festoon:** A string of ribbons, tinsel, small flags, pennants, pinwheels or lights, typically strung overhead in loops.

**Flag:** A sign made of cloth, fabric, or other durable, flexible material and attached to a permanent or temporary conforming pole.

**Flashing Sign:** A sign that contains an intermittent or sequential flashing light source. Electronic Display Signs, as defined herein, shall not constitute a flashing sign for the purpose of this ordinance.

**Freestanding Sign:** Any on-site sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

**Illuminated Sign:** Any sign which contains a mechanism that emits artificial light, including the following:

(a) **Externally Illuminated Sign:** Any sign with lights designed for illumination and not located within the sign itself.

(a) **Internally Illuminated Sign:** Any sign with lights designed for illumination from within the sign itself.

**Inflatable Sign:** A sign consisting of flexible material or fabric that takes on a three-dimensional shape when filled with a sufficient volume of air or other gas. Inflatable signs are commonly used as temporary signs to draw attention to a site.



**Interior Sign:** A sign placed within a building, but not including a window sign as defined herein, that is not visible from any public street, sidewalk, **alley**, park, or public property.

**Moving Sign:** Any sign in which the sign itself or any portion of the sign moves or revolves. A "rotating sign" and a "revolving sign" are types of moving signs. Such motion does not refer to the method of changing the message on the sign.

**Nonconforming Sign:**

- (a) A sign which is prohibited under the terms of this Ordinance but was Erected lawfully, with a permit and was in use on the date of enactment of this Ordinance, or amendment thereto.
- (b) A sign which does not conform to the requirements of this Ordinance, but for which a variance has been granted.

**Permanent Sign:** Any sign constructed and intended to be displayed for an indefinite, long-term period of time. Any sign, regardless of construction and intention, that is in place for more than six months shall be considered a permanent sign.

**Portable Sign:** A sign designed to be moved easily and not permanently affixed to the ground or to a structure. This also includes signs worn or carried by a person.

**Portable Message Center Sign:** A sign designed to be transported easily and not permanently affixed to the ground or to a structure. A portable message center sign includes a manual and electronic changeable copy sign, an electronic graphic display sign, a video display sign or multi-vision/tri-vision sign that may be displayed or affixed to a movable object such as but not limited to a car, truck, trailer or similar transportation device. The following are examples of portable message center signs:





**Projecting Sign:** A sign, other than a flat wall sign, that projects from the face of the building or structure upon which it is located and is designed to attract the attention of drivers. A projecting roof sign is one that projects beyond the face or exterior wall surface of the building upon which the roof sign is mounted. A projecting sign is not a projecting sign, as defined herein.



**Setback, Sign:** The distance from the lot line to the nearest part of a sign structure.

**Temporary Sign:** A sign not constructed or intended to be in place for more than 90 days.

**Vehicle Signs:** Signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer. Vehicle signs do not include Portable Message Center Signs.

**Wall Sign:** A sign painted on, incorporated in or attached directly to the exterior wall of a building, with the exposed face of the sign in a plane parallel to the building wall, and projecting no more than twelve (12) inches from the wall face. Permanent signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall also be considered wall signs.



**Window Sign:** A temporary sign located in or on a window which is intended to be viewed from the outside. Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall be considered wall signs. Temporary signs affixed to a window for more than thirty (30) days shall be considered wall signs.

**Sign Height:** The distance from the grade at the bottom of a sign to the upper-most point of the sign. If the sign is located on a Berm, the height of the Berm shall be included in the height of the sign.

**Single Family Dwelling Unit:** A room, or rooms, within one independent structure, connecting together constituting a separate, independent dwelling unit for one family.

**Special Land Use/Special Use:** Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district or districts. After due consideration of the impact of each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such special land uses may be permitted following review and approval subject to the terms of this Ordinance.

**State-Licensed Residential Facility (Non-Daycare):** Any structure constructed for residential purposes and licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act), including adult foster care facilities, foster family homes, foster family group homes, family day care homes, and group day care homes.

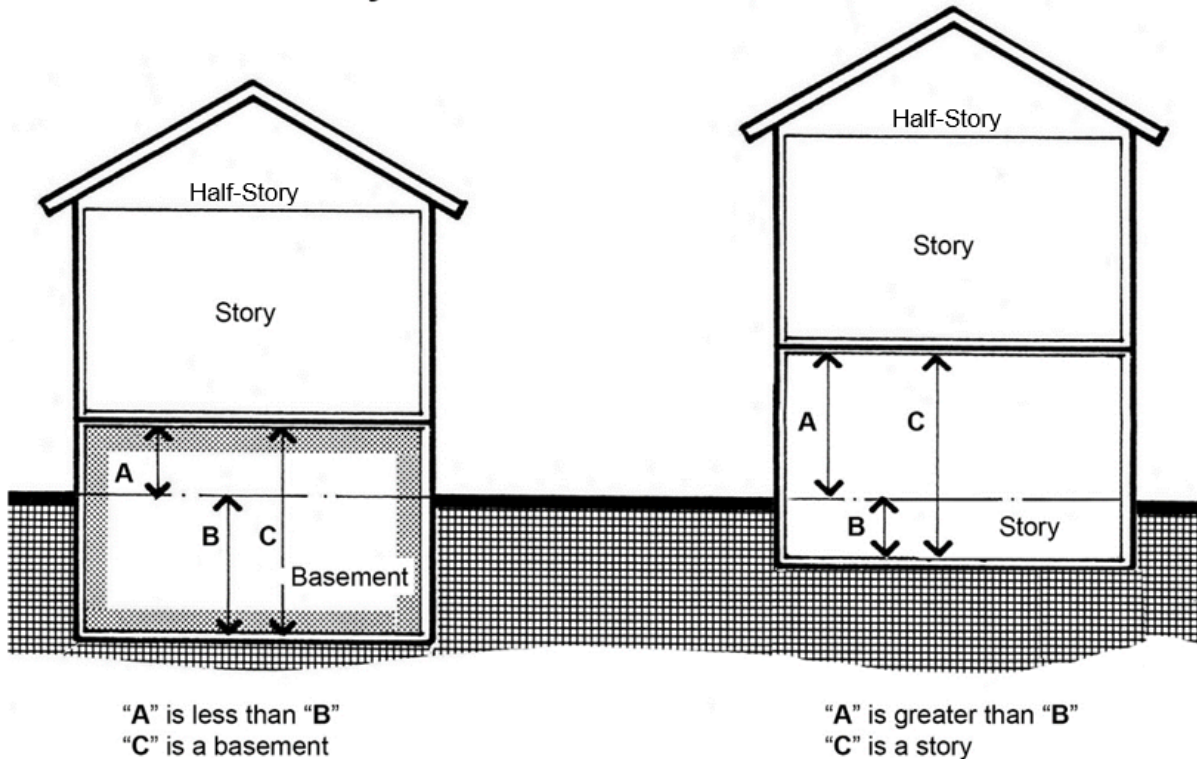
- (a) **Adult foster care:** The provision of supervision, personal care, and protection, in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
- (i) *Adult foster care facility:* A residential structure that is licensed to provide adult foster care, but not continuous nursing care, for unrelated adults over the age of 17. An 'adult foster care facility' does not include any of the following: a licensed child caring institution, children's camp, foster family home, or foster family group home; an alcohol or substance abuse rehabilitation center; a residential facility for persons released from or assigned to adult correctional institutions; a maternity home; a hotel or rooming house that does not provide or offer to provide foster care; or a veterans' facility.
  - (ii) *Adult foster care family home:* A private home with the approved capacity to receive not more than six adults to be provided with adult foster care.
  - (iii) *Adult foster care small group home:* An adult foster care facility with the approved capacity to receive not more than 12 adults.
  - (iv) *Adult foster care large group home:* An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults.
  - (v) *Adult foster care congregate facility:* An adult foster care facility with the approved capacity to receive more than 20 adults.
- (c) **Child foster care:** The care and supervision for 24 hours a day, for four or more days a week, and for two or more consecutive weeks, of minor children who are not related to an adult member of the household by blood or marriage, are not placed in the household under the Michigan adoption code, and are unattended by a parent or legal guardian.
- (i) *Foster family home:* A private home in which one but not more than four children are provided with child foster care.
  - (ii) *Foster family group home:* A private home in which more than four but not more than six children are provided with child foster care.
- (d) **Private home:** For the limited purpose of defining a state-licensed residential facility, a 'private home' means a private residence in which the facility licensee or registrant permanently resides as a member of the household.

**Story:** That portion of a building, other than a basement as defined herein, included between the upper surface of any floor and the upper surface of the floor or roof next above it.

A mezzanine shall be deemed a full story when it covers more than one-third of the area of the story underneath, or, if the vertical distance from the floor next below the mezzanine to the floor above it is 24 feet or more.

A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

## Basement and Story



**Story, Half:** The uppermost story lying under a roof, the usable floor area of which does not exceed two-thirds of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven feet, six inches.

**Street:** See Road.

**Street Lot Line:** A dividing line between the street and a lot, also known as the right-of-way line.

**Structural Alteration:** Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**Structure:** Anything constructed or Erected, the use of which requires location on the ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs. Not all structures shall be considered impervious surface – see definition of “surface, permeable.” A simple concrete pad, including, but not limited to, a sidewalk or driveway, shall not be considered a structure.

**Swimming Pool:** Any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing.

**Temporary Use or Building:** A use or building permitted to exist for a limited period of time under conditions and procedures as provided for in this Ordinance.

**Village:** Village of Muir, Ionia County, Michigan.

**Village Council:** The Supervisor, Clerk, Treasurer, and Trustees of Village of Muir, Ionia County, Michigan.

**Tube Lights:** Any light fixture that has the appearance of a “tube” of light, including neon, LED, fluorescent, or other lighting types. This definition shall not include words or images made up of tubes of light.

**Use:** The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

**Use, Accessory:** See *Accessory Use, Building, or Structure*.

**Use, Permitted:** A use which may be lawfully established in a particular district or districts provided it conforms to all requirements, regulations, and standards of such district.

**Use, Principal:** The main use of land and buildings and the main purpose for which land and buildings exist.

**Use, Special Land:** See *Special Land Use*.

**Variance:** A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals when strict enforcement of the Zoning Ordinance would cause practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

**Vehicle:** Unless specifically indicated otherwise, ‘vehicle’ shall mean any vehicle including by way of example, cars, trucks, vans, motorcycles, boats, and the like.

**Vendor:** Any person or persons engaging temporarily in the retail sale of goods, wares, or merchandise involving the display, sale, offering for sale, offering to give away, or giving away of anything of value including any food, beverage, goods, wares, merchandise, or services.

**Wetland:** Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and which is commonly referred to as a bog, swamp, or marsh. A wetland is further characterized by the presence of hydric soils and prevalence of aquatic vegetation (hydrophytes) typically adapted for life in saturated soil conditions. A wetland that exhibits these characteristics may be dry on the surface during part or all of the year.

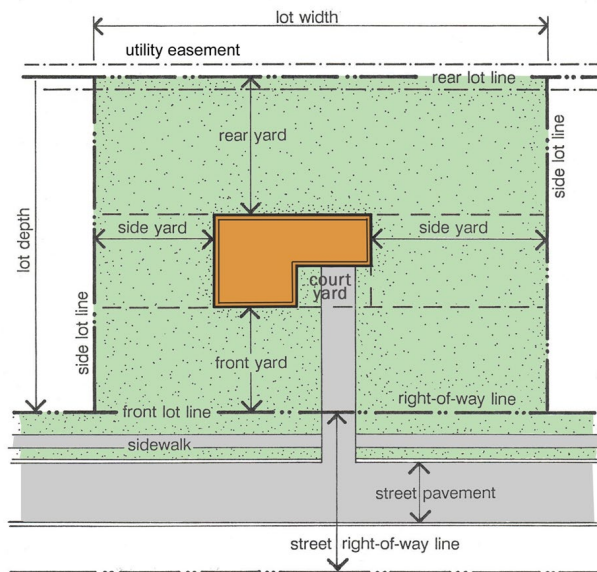
**Yard:** An open space on the same lot with a building. The ‘minimum required setback’ is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance (see illustrations).

**Yard, Front:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building. Unless otherwise specified, on corner lots and through lots, the front yard shall be defined as the yard adjacent to the front lot line.

**Yard, Rear:** An open space extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest line of the principal building. On corner lots, the rear yard shall be opposite the front yard.

**Yard, Side:** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

**Yard, Interior Side/Street Side:** A side yard that abuts an adjacent lot (in contrast to a ‘street side yard’, which abuts a street or road right-of-way).



# Article 18 Severability, Repeal, Effective Date, Adoption

## Section 21.1 Severability

- (A) This Ordinance and the various parts, sentences, paragraphs, sections and clauses it contains are hereby declared to be severable. Should any part, sentence, paragraph, section or clause be declared unconstitutional or invalid by any court for any reason, such judgment shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.
- (B) Furthermore, should the application of any provision of this Ordinance to a particular property, building, or structure be adjudged invalid by any court, such judgment shall not affect the application of said provision to any other property, building, or structure in the Village, unless otherwise stated in the judgment.

## Section 21.2 Effective Date

Made and passed by the Village Council of Muir, Ionia County, Michigan, on \_\_\_\_\_ and effective on \_\_\_\_\_.

## Section 21.3 Adoption

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the Village Council of Trustees.

- (A) Public hearing by Planning and Zoning Commission:
- (B) Recommendation of Planning and Zoning Commission to approve the Zoning Ordinance text to the Village Council:
- (C) Village Council adoption of the Zoning Ordinance text and map:
- (D) Date the Ordinance text and map shall take effect:

\_\_\_\_\_  
Supervisor Date \_\_\_\_\_

I, \_\_\_\_\_, Clerk of the Village of Muir, Ionia County, Michigan, hereby certify that notice of adoption of the foregoing ordinance was published pursuant to the provisions of Michigan Public Act 110 of 2006, as amended, in a newspaper of general circulation in Village of Muir on \_\_\_\_\_.

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

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