

**VILLAGE OF
LEXINGTON**

**SANILAC COUNTY,
MICHIGAN**

**ZONING
ORDINANCE**

VILLAGE OF LEXINGTON

Sanilac County, Michigan

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"The Village of Lexington"

Ordinance No. 2004-02

THE VILLAGE OF LEXINGTON ORDAINS:

**ARTICLE 1
TITLE, PURPOSE, SCOPE, CONSTRUCTION,
VALIDITY, SEVERABILITY, CONFLICT AND VESTED RIGHT**

Section 1.1 Title.

This Ordinance shall be known and cited as the Village of Lexington Zoning Ordinance.

Section 1.2 Purpose.

The purpose of this Ordinance is to promote, protect, regulate, restrict and provide for the use of land and buildings within the Village of Lexington; to meet the needs of the state's residents for places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

In providing for all of these uses, services and infrastructure, the Village of Lexington shall be promoting and approving the development of land and the extension of utilities in a logical and consistent pattern consistent with the continuation of the existing street patterns and the implementation of the traditional town pattern of interconnecting blocks.

The Village is divided into districts which include regulations designating land uses or activities that shall be permitted or subjected to special regulations.

It is also the purpose of this Ordinance to provide for the establishment of a Board of Appeals and its powers and duties; to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.

Section 1.3 Scope and Construction of Regulations.

1.3.1. This Ordinance shall be liberally construed in such manner as to best implement its purpose. In interpreting and applying the provisions of this Ordinance, the requirements shall be held to be the minimum for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare.

1.3.2. No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed or altered, and no new use or change of use shall be made of any building, structure, land, or part thereof, except as permitted by the provisions of this Ordinance.

1.3.3. Where a condition imposed by a provision of this Ordinance upon the use of any lot, building, or structure is conflicting with a condition imposed by any other provision of this Ordinance, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive shall govern.

1.3.4. Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

Section 1.4 Validity and Severability Clause.

If a court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling.

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

Section 1.5 Conflict with Other Laws, Regulations, and Agreements.

Where any condition imposed by any provision of this Ordinance upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable conditions imposed by any other provision of this Ordinance or by the provision of any Ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

This Ordinance is not intended to modify or annul any easement, covenant, or other private agreement provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.

Section 1.6 Vested Right.

It is hereby expressly declared that nothing in this Ordinance be held or construed to give or grant to any person, firm, or corporation any vested right, license, privilege or permit.

Section 1.7 Land Use Permits

At the time of adoption of this ordinance, the County of Sanilac Building Department issues, regulates, and enforces building permits on behalf of the Village. The Village of Lexington regulates land uses through the issuance of land use permits. All uses of land regulated by this zoning ordinance must first receive an approved land use permit except as otherwise specified herein. All land use permits expire within one year unless construction or said activity has commenced

Section 1.7.1 Land Use Permit Application

An application for a land use permit under this ordinance shall be made to the zoning administrator or his designated agent on a form provided by the Village and shall contain or have attached thereof the following information:

- (a) Name, address and telephone number of the applicant and the owner if different from the applicant.
- (b) The address or legal description of the lot where the proposed use will occur.
- (c) The applicant must demonstrate proof of legal possession of the land for the proposed use.
- (d) A site plan showing the location of the proposed use and its relationship to all existing and proposed structures and lot lines.
- (e) Plans and specifications for the proposed use including the following information:
 - (1) Exact dimensions including height and distance from structures and lot lines.
 - (2) The type of use according to the definitions of this zoning ordinance.
 - (3) A sketch of the footprint of all buildings and structures and type and amount of paving and landscaping which will appear on the property.
 - (4) The materials out of which the proposed construction is to be made.

Section 1.7.2 Permit Fees

All applications shall be accompanied by a land use permit application fee as established in the fee schedule which shall be adopted and amended from time to time by the Village Council. The permit application fee shall reimburse the Village for the costs of checking the application for compliance with the ordinance and shall reimburse the Village for the costs of necessary inspections. The land use fees do not include electrical permits or building permit fees which may be required.

ARTICLE 2

DEFINITIONS AND RULES APPLYING TO TEXT

Section 2.1 Rules Applying to Text.

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

- 2.1.1. The particular shall control the general.
- 2.1.2. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- 2.1.3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- 2.1.4. Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
- 2.1.5. The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- 2.1.6. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

Section 2.2 Definitions.

For the purpose of this Ordinance, certain words and terms are herewith defined. Illustrations of specific definitions are provided.

Accessory Buildings and Structures. A supplementary building or structure on the same lot or parcel of land as the principal building, occupied by or devoted exclusively to an accessory use.

Accessory Use. A use reasonably and customarily, incidental and subordinate to, the principal use of the premises.

Adult Foster Care Facility. A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a

correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. The following additional definitions shall apply in the application of this Ordinance:

1. *Adult Foster Care Small Group Home:* An owner-occupied facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.
2. *Adult Foster Care Large Group Home:* A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.
3. *Adult Foster Care Family Home:* A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
4. *Adult Foster Care Congregate Facility:* An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

Automobile Dealer. A building or premises used primarily for the sale of new or used automobiles.

Automobile Repair. General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, overall painting, and vehicle rust-proofing.

Automobile Service Station. A place that is used or designed to be used for the retail supply of gasoline and other fuels used for the propulsion of motor vehicles, kerosene, motor oil, lubricants or grease, including sale of accessories and services, such as: polishing, washing, cleaning, greasing, undercoating, and minor repairs, but not including bumping, painting, or refinishing thereof. In addition to automobile service, convenience stores and carry out restaurants may be included.

Automobile Washes. A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means.

Auxiliary Parking Lot. A parking area that is provided in excess of required parking spaces for the permitted use.

Basement. That portion of a building having more than one-half (1/2) of its height below finished grade (see Figure 1).

Bed and Breakfast Operations. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.

Building. A structure having a roof supported by columns or walls.

Building Code. The currently adopted code or codes regulating building construction in the Village of Lexington.

Building Height. The building height is the vertical distance measured from the finished grade level to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridges of gable, hip, and gambrel roofs. Where the building may be situated on sloping terrain, this height shall be measured from the average level of the finished grade at the building wall (see Figure 2).

Building Setback Line. The line established by the minimum required setbacks forming the area within a lot in which a building may be located.

Building Official. The administrative official designated by the Village Council to enforce the Building Code.

Cemetery. One or a combination of more than one of the following:

- (i) A burial ground for earth interments.
- (ii) A mausoleum for crypt entombments.
- (iii) A crematory for the cremation for human remains.
- (iv) A columbarium for the inurnment of cremated remains.

Commercial Use. The use of p[roperty in connection with the purchase, sale, barter, display or exchange of goods, wares, merchandise, or personal services, and the maintenance or operation of offices.

Commercial Use. The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services, and the maintenance or operation of offices.

Conditional Use. A use which is subject to conditional approval by the Village Council. A conditional use may be granted only when there is a specific provision in this Chapter. A conditional use is not considered to be a nonconforming use.

Convalescent or Nursing Home. A state licensed facility for the care of children, of the aged or infirm, or a place of rest for those suffering bodily disorders. Said home shall conform and qualify for license under State law even through State law has different size regulations.

Convenience Grocery Store. A one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively

few items (in contrast to a "supermarket"). Convenience grocery stores are designed to attract a large volume of stop-and-go traffic.

Day Care Facilities. The following definitions shall apply in the application of this Ordinance:

1. *Family Day Care Home:* A state-licensed, owner-occupied private residence in which one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.
2. *Group Day Care Home:* A state-licensed, owner-occupied private residence in which seven (7) but not more than twelve (12) children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.
3. *Day Care Center:* A state-licensed facility, other than a private residence, receiving one (1) or more children for care and supervision for periods less than twenty-four (24) hours, and where the parents or guardians are not immediately available to the child.

District. A portion of the Village within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

Dwelling. A dwelling is a building used exclusively as a residence by not more than one (1) family but in no case shall a travel trailer, motor home, trailer coach, automobile chassis, tent or other portable building be considered a dwelling.

Dwelling, Multiple-Family. A building consisting of three (3) or more dwellings.

Dwelling, Single-Family. A building designed for, or occupied exclusively by, one (1) family.

Dwelling, Two-Family. A building consisting of two (2) dwellings.

Easement The right of an owner of property by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses.

Essential Services. Services that are erected, constructed, altered, or maintained by public utilities or municipal agencies of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, poles, and other similar equipment or accessories reasonably in connection therewith for the furnishing of adequate service by such public utilities or municipal agencies.

Extractive Operation. Premises from which any rock, gravel, sand, topsoil or earth in excess of fifty (50) cubic yards in any calendar year is excavated or removed for the purpose of disposition away from the premises except excavation in connection with the construction of a building or within public highway rights-of-way.

Family. An individual or a group of two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one (1) additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single non-commercial housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

Fence. A permanent or temporary barrier enclosing or bordering a plot of land or portion thereof composed of suitable man-made materials for the purpose of preventing or controlling entrance or to confine within or to mark boundary.

Floor Area. The sum of the gross horizontal areas of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings.

Garage. A structure which is accessory to a principal residential dwelling and which is used for the parking and storage of vehicles owned and operated by the residents thereof.

Grade. The degree of rise or descent of a sloping surface (see Figure 3).

Grade, Finished. The final elevation of the ground surface after development (see Figure 3).

Grade, Natural. The elevation of the ground surface in its natural state, before man-made alternations (see Figure 3).

Hardship, Unnecessary: An unnecessary hardship is governed by the four following rules. An applicant’s personal hardship, that does not relate to the land, is not sufficient to support a variance.

- (1.) Unnecessary hardship is a circumstance of a property owner’s land such that if used in strict compliance with the zoning ordinance, the property cannot yield a reasonable return (not “the owner’s greatest desired return”).
- (2.) Furthermore, an unnecessary hardship must be unique, and not a condition that prevails generally throughout the zoning district.
- (3.) The owner must also establish that the use of the property will not change the character of the neighborhood if the variance is granted.
- (4.) The circumstance of the asserted hardship must not be self-created.

Home Occupation. An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Junk Yard. A place, structure, parcel or use of land where junk, waste, discard, salvage, or similar materials such as old iron or the metal, wood, lumber, glass, paper, rags, cloth, leather, rubber, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto wrecking yards, inoperative machines, used lumber yards, housing wrecking, and structural steel materials and equipment and including establishments for the sale, purchase, or storage or salvaged machinery and the processing of used, discarded, or salvaged materials, for any thirty (30) consecutive days.

Kennel. A kennel is any place or premise where three (3) or more adult dogs, cats, or other domestic pets are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

Landscaping. The following definitions shall apply in the application of this Ordinance:

1. *Berm:* A landscaped mound of earth which blends with the surrounding terrain.
2. *Buffer:* A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.
3. *Conflicting non-residential land use:* Any non-residential use, such as office, commercial, industrial, research, parking or public road right-of-way land use which abuts a residential land use.
4. *Conflicting residential use:* Any residential land use developed at a higher density which abuts a residential land use developed at a lower density.
5. *Greenbelt:* A landscaped area, established at a depth of the minimum required front yard setback within a Zoning District, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use and/or between a conflicting land use and an existing or proposed land use.
6. *Opacity:* The state of being impervious to sight.
7. *Plant material:* A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.

Living Quarters. A building or area in a building designed as an abode distinguished with kitchen facilities that compliment sleeping facilities.

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

Lodging Facility. Any establishment in which individual units are rented to transients for periods of less than thirty (30) days for the purpose of sleeping accommodations. The term shall include hotels and motels but shall not include bed and breakfast operations, multiple-family dwellings or rooming houses.

Lot. A lot is a parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. Any combination of complete and/or portions of lots of record;
4. A parcel of land described by metes and bounds.

Lot Area. The total horizontal area within the lot lines of a lot, but excluding that portion within a street right-of-way.

Lot, Corner. A lot with frontage on two intersecting streets. (See illustration entitled “Corner, Interior and Double Frontage”)

Lot Coverage. The percentage of the lot area covered by the building area.

Lot Depth. The mean horizontal distance from the front line to the rear lot line; or in the case of a waterfront lot, from the lake frontage line to the street frontage line; or in the case of an acreage lot, from the front right-of-way line to the rear lot line.

Lot, Double Frontage. A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street will 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 structures in the same block fronting one or both of the streets, the required front yard setback shall be observed on those streets where structures presently front.

Lot, Interior. An interior lot is a lot other than a corner lot with only one (1) lot line fronting on a street.

Lot, Width. The required horizontal distance between the side lot lines measured at the two (2) points where the required front yard setback line intersects the side lot lines. For lots located on the turning circle of a cul-de-sac, the lot width may be reduced to eighty (80%) percent of the required lot width.

Lot Lines. Any line dividing one lot from another or from a public right-of-way, and thus constitutes the property lines bounding a lot.

Lot of Record. A lot of record is a lot, the dimensions of which are shown on a subdivision plat recorded in the Office of the Register of Deeds for Sanilac County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a Professional Engineer or Registered Surveyor, so designated by the State of Michigan, and said description so recorded or on file with the County.

Manufacturing. The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale or other use of any goods, substance, article, thing or service.

Maximum Lot Coverage. Total permitted area of a lot that is not open space due to structures built on the land. Structures such as principal buildings, garages, accessory buildings, decks, porches, and parking lots are counted. Ground covering such as residential driveways, gazebos, yard ornaments and signs are not counted.

Mezzanine. Is an intermediate floor in any story occupying but not to exceed more than one-third (1/3) of the floor area of such story.

Mobile Home. A detached portable single-family dwelling, prefabricated on its own chassis and intended for long-term occupancy. The unit contains sleeping accommodations, a flush toilet, a wash basin, a tub or shower, eating and living quarters. It is designed to be transported on its own wheels or flatbed arriving at the site where it is to be occupied as a complete dwelling without permanent foundation and connected to existing utilities.

Mobile Home Park. Any parcel of land intended and designed to accommodate more than one (1) mobile home for living use which is offered to the public for that purpose; and any structure, facility, area, or equipment used or intended for use incidental to that living use.

Non-Conforming Building. A non-conforming building is a building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance in the zoning district in which it is located.

Non-Conforming Use. A non-conforming use is a use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.

Off-Street Parking Area. A land surface or facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two (2) automobiles.

Ordinary High Water Mark. The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is distinguished from the upland as evidenced in the soil, the configuration of the surface of the soil and vegetation.

Parking Space. One (1) unit of a parking area provided for the parking of one (1) vehicle, and shall be exclusive of driveways, aisles, or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

Principal Building or Structure. The main building or structure in which the primary use is conducted.

Public Utility. Any person, firm, corporation, or municipal agency authorized under Federal, State, County or municipal regulations to furnish electricity, gas, communications, transportation, water, or sewer services.

Recreational Vehicle. "Recreational Vehicles" shall include the following:

1. *Boats and Boat Trailers:* "Boats" and "boat trailers" shall include boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
2. *Folding Tent Trailer:* A canvas folding structure, mounted on wheels and designed for travel and vacation use.
3. *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.
4. *Other Recreational Equipment:* Other recreational equipment includes snowmobiles, all-terrain or special terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.
5. *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.
6. *Travel Trailer:* A portable vehicle on a chassis, not exceeding thirty-six (36) feet in length or nine (9) feet in width, 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.

Restaurant. A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below.

1. *Restaurant, Carry-Out:* A carry-out restaurant is a restaurant whose method of operation involved sale of food, beverages, and/or frozen deserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
2. *Restaurant, Fast-Food:* A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is

served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.

3. *Restaurant, Sit Down:* A standard restaurant is a restaurant whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
4. *Bar/Lounge:* A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

Right-of-Way. A legal right of passage over real property typically associated with roads and railroads.

Rooming House. A dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire without meals.

Screen. A structure providing enclosure, such as a fence, and/or visual barrier between the area enclosed and the adjacent property. A screen may also consist of living materials such as trees and shrubs.

Seasonal Parking Lot. A parking area designed to service a limited, defined group of users less than six (6) months per year during the non-winter months.

Setback. The minimum required horizontal distance between the building or structure and the front, side, and rear lot lines and natural features.

Shopping Center. More than one (1) commercial establishment, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

Sign. A device which is affixed to, or otherwise located or set upon a building, structure or parcel of land which directs attention to an activity, or business. The definition includes interior signs which are directed at persons outside the premises of the sign owners and exterior signs, but not signs primarily directed at persons within the premises of the sign owner. The definition does not include goods for sale displayed in a business window. The following additional definitions are provided:

1. *Freestanding Sign:* A sign which is attached to or part of a completely self-supporting structure. The supporting structure shall be placed in or below the ground surface and not attached to any building or any other structure whether portable or stationary.
2. *Projecting Sign:* A sign other than a wall sign, which is perpendicularly attached to, and projects from a structure or building wall not specifically designed to support the sign.

3. *Portable Temporary Sign:* A single or double surface painted or poster panel type sign or some variation thereof, which is temporary in nature, easily movable, and not permanently attached to the ground or a building.
4. *Real Estate Sign:* A temporary sign placed upon property for the purpose of advertising to the public the sale or lease of said property.
5. *Roof Sign:* Any sign wholly erected to, constructed/or maintained on the roof structure of any building.
6. *Wall Sign:* Any sign that shall be affixed parallel to the wall or printed or painted on the wall of any building; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this ordinance, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign.
7. *Canopy Sign:* Means a sign displayed and affixed flat on the surface of a canopy and does not extend vertically or horizontally beyond the limits off the canopy.
8. *Window Sign:* A sign installed inside a window and intended to be viewed from the outside.
9. *Sign Surface:* That part of the sign upon, against, or through which the message is displayed or illustrated.

Site Condominium. A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed. The following additional definitions are provided:

1. *Condominium Act:* Act 59, Public Acts of 1978, as amended.
2. *Condominium Documents:* The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.
3. *Condominium Lot:* The condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.
4. *Condominium Unit:* The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
5. *General Common Elements:* The common elements other than the limited common elements.

6. *Limited Common Elements:* A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
7. *Master Deed:* The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by Section 8 of the Condominium Act.

Story. That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling above it.

Story, One-Half. A story under the gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story and the floor area shall not exceed two-thirds (2/3) of the area of the floor below.

Street. A public or private thoroughfare which affords the principal means of access to abutting property.

Street Line. The dividing line between the street right-of-way and the lot. When such right-of-way is not definable, a line shall be defined as thirty-three (33) feet on either side of the center of the street.

Structure. Anything constructed or erected above ground level or which is attached to something located on the ground. Structures typically include such things as buildings, amateur radio towers, sheds, and decks.

Wireless Communication Facilities. Shall mean and include 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, micro-wave 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 may be subject to state or federal law or regulations which preempt municipal regulatory authority. For purposes of this Ordinance, the following additional terms are defined:

1. *Attached Wireless Communications Facilities.* Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
2. *Wireless Communication Support Structures.* Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

3. *Collocation.* The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

Yard, Front. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line. In all cases, the front lot line shall be considered to be that portion of the lot which abuts a public road right-of-way, private road easement or shoreline (see Figure 4).

Yard, Rear. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building (see Figure 4).

Yard, Side. A yard between any building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of principal building (see Figure 4).

ARTICLE 3

ADMINISTRATION AND ENFORCEMENT

Section 3.1 Zoning Administration.

The Zoning Administrator, or his/her designees, shall be appointed by the Village Council and designated to administer and enforce the provisions of this Ordinance.

Section 3.2 Duties.

The Zoning Administrator shall:

3.2.1. Receive and review for completeness all applications for site plan review and conditional use permits which the Planning Commission and Village Council are required to decide under this Ordinance and refer such applications to the Planning Commission and Village Council for determination.

3.2.2. Receive and review for completeness all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.

3.2.3. Receive and review for completeness all applications for amendments to this Ordinance and refer such applications to the Planning Commission and Village Council for determination.

3.2.4 Review applications and site plans, make site inspections, and issue land use permits for residential (R-1A, R-1B, AND MHP) and commercial (C-1, C-2, AND CBD) districts. Commercial applications are limited to signs, parking, fences, accessory buildings, new business registration, demolition, additions/alterations/remodeling of less than 25% of the existing principal building, and other limited uses as authorized by this ordinance

3.2.5 Make periodic site inspections of the Village to determine Ordinance compliance, and answer complaints on Zoning Ordinance violations.

3.2.6 Shall, after giving notice to perfect a violation of the ordinance, have the right to revoke an land use permit if the violation is not corrected within a reasonable period of time or issue a ticket.

3.2.7 Implement the decisions of the Planning Commission and Village Council.

Section 3.3 Conditional Land Uses.

3.3.1. Application. Applications for conditional land use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form provided by the Village. In addition to a complete application form, the applicant is required to submit a preliminary site plan prepared in accordance with Section 3.4 , Site Plan Review. Incomplete submittals shall not be accepted by the Zoning Administrator.

3.3.2. Procedures.

1. Conditional land use permits may be granted by the Village Council at its discretion.
2. The Zoning Administrator shall review the proposed application and preliminary site plan to determine if all required information has been supplied, and forward the completed application, preliminary site plan, and supporting data to the Planning Commission for a recommendation.
3. Upon receipt of a recommendation by the Planning Commission, one notice that such a request has been received shall be published in at least one (1) newspaper of general circulation within the Village and sent by certified mail or personal delivery to the owners of the property for which approval is being considered, 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. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the application will be considered. The notice shall: (a) describe the nature of the conditional land use request; (b) indicate the property which is the subject of the conditional land use request; (c) state when and where the conditional land use request will be considered; (d) indicate when and where written comments will be received concerning the request; (e) indicate that a public hearing on the conditional land use request may be requested by a property owner or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a special use. At the initiative of the Village Council or upon the request of the applicant or a property owner or resident entitled to notice hereunder, a public hearing shall be held pursuant to notice as required in this paragraph before a decision is made on the request for a conditional land use.
4. After notice, and after a public hearing if requested, the Village Council may deny, approve, or approve with conditions a request for a conditional land use. The decision of the Village Council shall be incorporated in a statement of conclusions

relative to the conditional land use under consideration. Any decision which denies a request or imposes conditions upon its approval shall specify the basis for the denial or the conditions imposed.

The Village Council may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the conditional use is proposed will be observed.

3.3.3. Basis of Determinations. The Planning Commission and Village Council shall review the proposed conditional use in terms of the standards stated within this Ordinance and shall establish that such use and the proposed location:

1. Will be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan.
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
3. Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.
4. Will be an improvement in relation to property in the immediate vicinity and to the Village as a whole.
5. Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
6. Will not create excessive additional public costs and will not be detrimental to the economic welfare of the Village.
7. Will be consistent with the intent and purposes of this Ordinance.

3.3.4. Duration, Voiding and Extensions of Permit. Unless otherwise specified by the Village Council, any conditional land use permit (CLU) granted under this section shall be null and void unless the development proposed shall have its first building permit issued within one (1) year from the date of the granting of the permit. The Zoning Administrator shall give notice by certified mail to the holder of a permit before voidance is actually declared. Said notice shall be mailed to the permit holder at the address indicated on said permit. Within thirty (30) days of receipt of notice of voiding of the permit, the applicant shall have the right to request an extension of the CLU permit from the Village Council. The Village Council may grant an extension thereof for good cause for a period not to exceed one (1) year.

The Zoning Administrator may suspend or revoke a CLU permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied

by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other ordinances or regulations of the Village.

3.3.5. Reapplication. No application for a conditional land use permit, which has been denied wholly or in part, shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the Village Council.

Section 3.4 Site Plan Review.

The Village Council shall have the authority to review and to approve or reject all site plans (i.e. preliminary, final and combined site plans), taking into account the recommendations of the Village Planning Commission. Prior to the issuance of building permits or commencement of construction, a site plan review and approval is required in accordance with the procedures contained in this section.

3.4.1. Where required.

1. Site plan review is required for all new construction of any nonresidential building or structure on any parcel and for any new residential single-family, two-family or multiple-family developments. All such construction or developments shall be consistent with the purpose of this Ordinance as presented in Section 1.2 of this Ordinance.
2. Site plan review is required for all proposed uses and certain existing uses within the Village where an alteration, addition, expansion, change or conversion constitutes an increase or reduction to the existing structure or use of more than five hundred (500) square feet or ten (10%) percent, whichever is less; or would require a variance from the provisions of this Ordinance, regardless of its size, or there is a change of use from the existing use. Site plan review shall also be required prior to the paving of any off-street parking for any use for which off-street parking is required by this Ordinance, or for the construction of new parking lots or driveways.
3. Site plan review shall not be required for individual single-family dwellings, or residential accessory storage buildings. However, a site plan shall accompany a land use application to be reviewed and approved by the Zoning Administrator to insure such improvements meet all of the requirements of this ordinance.
4. The Village shall not issue a land use permit until a final site plan has been approved and is in effect. A use, not involving a building or structure, shall not be commenced or expanded, nor shall the Zoning Administrator or designee issue an land use permit for such use until a final site plan has been approved and is in effect.
5. No grading, removal of trees or other vegetation, land filling or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in this Article.

3.4.2. Preliminary Site Plan

1. Application. Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee, and ten (10) copies of the preliminary site plan drawing(s). The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan drawings to the Planning Commission prior to its next regular meeting. The purpose of such preliminary review is to confirm general compliance with Village standards as well as to suggest changes, if necessary, for final site plan approval.
2. Information Required. Each preliminary site plan submitted for review shall provide the following information:
 - a. property owners and applicant's name and address;
 - b. scale, north arrow, and date of plan;
 - c. location, description, dimensions, and area of the site; zoning classification; and, demonstration of compliance with lot area, width, coverage and setback requirements.
 - d. general topography and soils information and existing natural and man-made features to be retained or removed;
 - e. location and dimensions of proposed buildings/structures; including floor area, number of floors, height, number and type of dwelling units (where applicable);
 - f. proposed streets/drives; including general alignment, right of way, surface type, and width to be consistent with adjacent streets and drives and the expansion of advancement of the purpose of the traditional town plan;
 - g. proposed parking; including location and dimensions of spaces and aisles, and surface type;
 - h. adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets;
 - i. proposed phasing;
 - j. location and width of any easements on the site.
3. Planning Commission Action. The Planning Commission shall make a recommendation to approve, approve with conditions or deny the preliminary site plan within sixty (60) days from the date of the Planning Commission meeting at which the site plan is first heard. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken. The time limit may

be extended upon a written request by the applicant and approval by the Planning Commission.

4. Village Council Action. The Village Council shall receive the recommendations of the Planning Commission and may approve or deny the preliminary site plan.
5. Effect of Approval. Approval of a preliminary site plan by the Village Council shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities and overall character of the proposed development. The Village Council may, at its discretion, and with appropriate conditions attached, authorize issuance of grading and foundation permits on the basis of the approved preliminary site plan. The authorization, however, will be used only in those situations in which seasonable conditions, such as the onset of frost, or other severe time limitations might, in the Village Councils opinion, unduly delay the commencement of construction until after the final site plan is approved. The Village Council shall attach appropriate conditions to such authorization.
6. Expiration of Approval. Approval of a preliminary site plan shall be valid for a period of one hundred eighty (180) days from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the Zoning Administrator within that time period. The Zoning Administrator or duly appointed agent shall, within ten (10) days of the date of approval of the preliminary site plan by the Village Council, transmit a written certification of such approval to the applicant.

3.4.3. Final Site Plan.

1. Application. Following approval of a preliminary site plan, the applicant shall submit to the Zoning Administrator ten (10) copies of a final site plan as well as other data and exhibits hereinafter required, the review fee, and a completed application form. The Administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing(s) to the Planning Commission prior to its next regular meeting.
2. Information Required. A Final Site Plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site Plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50' for property less than three acres or no greater than 1" = 100' for property three or more acres.

General Information

- a. Proprietors', applicants', and owners' names, addresses and telephone numbers.
- b. Date of preparation, including revisions.
- c. Scale.

- d. Northpoint.
- e. Location map drawn at a scale of 1" = 2,000' with north point indicated.
- f. Architect, Engineer, Surveyor, Landscape Architect, or Planner's seal.
- g. Existing and proposed lot lines, building lines, structures, parking areas, etc., on the parcel and within one hundred (100) feet of the site.
- h. Centerline and existing and proposed right-of-way lines of any street.
- i. Zoning classification of petitioner's parcel and all abutting parcels.
- j. Gross acreage figure.

Physical Features

- a. Acceleration, deceleration and passing lanes and approaches.
- b. Proposed locations of access drives, street intersections, driveway locations, sidewalks, and curbing.
- c. Location of existing and proposed service facilities above and below ground, including:
 - Chemical and fuel storage tanks and containers.
 - Water supply facilities.
 - Sanitary sewage disposal facilities.
 - Storm water control facilities and structures.
 - Location of all easements.
- d. Location of all structures with setback and yard dimensions.
- e. Dimensioned parking spaces and calculation, drives and method of surfacing.
- f. Exterior lighting locations and illumination patterns.
- g. Location and description of all existing and proposed landscaping, berms, fencing and walls.
- h. Trash receptacle pad location and method of screening.
- i. Transformer pad location and method of screening.
- j. Dedicated road or service drive locations.

- k. Entrance details including sign locations and size.
- l. Designation of fire lanes.
- m. Any other pertinent physical features.

Natural Features

- a. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Sanilac County, Michigan.
- b. Existing topography with a maximum contour interval of two (2) feet. Topography on the site and beyond the site for a distance of one hundred (100) feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.
- c. Location of existing drainage courses and associated bodies of water, on and off site, and their elevations.
- d. Location of existing wetlands.
- e. Location of natural resource features, including woodlands and areas with slopes greater than ten (10%) percent (one (1) foot of vertical elevation for every ten (10) feet of horizontal distance).

Additional Requirements for Residential Developments

- a. Density calculations by type of unit by bedroom counts.
- b. Designation of units by type and number of units in each building.
- c. Carport or garage locations and details where proposed.
- d. Specific amount and location of recreation spaces.

Additional Requirements for Commercial and Industrial Developments

- a. Loading/unloading areas.
 - b. Total and useable floor area.
 - c. Number of employees in peak usage.
3. Standards for Review. In reviewing the final site plan, the Planning Commission and Village Council shall determine whether the plan meets the following specifications and standards:

- a. The plan conforms to the approved preliminary site plan and with all Zoning Ordinance regulations;
 - b. All required information is provided;
 - c. The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare and character of the Village.
 - d. There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides of the buildings.
 - e. The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.
 - f. Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater and woodlands.
 - g. Storm water management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site.
 - h. Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet County and State standards.
 - i. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with County and State standards.
 - j. Landscaping, including grass, trees, shrubs and other vegetation is provided to maintain and improve the aesthetic quality of the site and area.
 - k. The proposed use is in compliance with all Village Ordinances and any other applicable laws.
4. Planning Commission Action. The Planning Commission shall make a recommendation to approve, approve with conditions, or deny the final site plan within sixty (60) days of the date of the Planning Commission meeting at which the

site plan is first heard. The time limit may be extended upon a written request by the applicant and approved by the Planning Commission. The Planning Commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.

5. Village Council Action. The Village Council shall receive the recommendations of the Planning Commission and approve or deny the site plan.
6. Effect of Approval. Approval of a final site plan authorizes issuance of a land use permit.
7. Expiration of Approval. Approval shall expire and be of no effect unless a building permit shall have been taken out within one hundred eighty (180) days of the date of approval of the final site plan. Also, approval of a final site plan shall expire and be of no effect one year following the date of approval unless construction has begun on the property in conformance with the approved final site plan.

3.4.4. Combining Preliminary and Final Site Plans. An applicant may, at his discretion and risk, combine a preliminary and final site plan in application for approval. In such a situation the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity and/or scale of the site for the proposed development so warrant. A preliminary and final site plan shall not be combined for any development consisting of two (2) or more phases.

3.4.5. Amendment of Approved Site Plan. The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing (s) be submitted showing such minor changes, for purposes of record.

3.4.6. Modification of Plan During Construction. All improvements shall conform to the final site plan. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes prior to such change being made. Any changes which result in a material alteration of the site plan approved by the Planning Commission shall require resubmittal to the Planning Commission. The Planning Commission, Village Council, or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

3.4.7. Phasing of Development. The applicant may, at his discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, the size, and character of each phase. A final site plan may be submitted for review and approval for each phase.

3.4.8. Inspection. The Zoning Administrator or designee shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements such as utilities, sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspection.

The Building Inspector shall notify the Zoning Administrator, in writing, when a development for which a final site plan as approved has passed inspection with respect to the approved final site plan. The Building Inspector shall notify the Zoning Administrator, in writing, of any development for which a final site plan was approved, which does not pass inspection with respect to the approved final site plan, and shall advise the Zoning Administrator of steps taken to achieve compliance. In such case, the Building Inspector shall periodically notify the Zoning Administrator of progress towards compliance with the approved final site plan and when compliance is achieved. A partial certificate of occupancy shall be issue until the Zoning Administrator has inspected the site for compliance with the total site plan. Thereafter, upon approval of the full site plan, a certificate of occupancy will be issued

3.4.9. Violations. The approved final site plan shall regulate development of the property and any violation of this Article, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this Ordinance as provided in Article 1 of the Code of Ordinances, and shall be subject to all penalties therein.

Section 3.5 Site Condominium Project Regulations.

3.5.1. Intent. Pursuant to the authority conferred by Section 141 of the Condominium Act, preliminary and final site plans shall be regulated by the provisions of this Ordinance and subject to the review by the Planning Commission and approval of the Village Council.

3.5.2. General Requirements.

1. Each condominium lot shall be located within a zoning district that permits the proposed use.
2. Each condominium lot shall front on and have direct access to a public street approved by the Village.
3. For the purposes of this ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.
4. In the case of a site condominium containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use except in a PUD district. Required yards shall be measured from the boundaries of a condominium lot.

3.5.3. Site Plan Approval Requirements. Preliminary approval of the site plan and final approval of the site plan and condominium documents including Master Deed and Bylaws by the Planning Commission and Village Council shall be required as a condition to the right to construct, expand or convert a site condominium project. No permits for erosion control, building construction, grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the Village

Planning Commission and Village Council and is in effect. Preliminary and final approval shall not be combined.

1. Preliminary Approval.

- a. A preliminary site plan pursuant to the standards and procedures set forth in Section 3.4 of this Ordinance shall be submitted to the Planning Commission for preliminary review.
- b. If the site plan conforms in all respects to applicable laws, ordinances and design standards, preliminary approval shall be granted by the Planning Commission.
- c. If the site plan fails to conform, the Planning Commission shall either deny the application, or grant preliminary approval with conditions, provided such conditions are met before final approval.

2. Final Approval.

- a. Following preliminary approval, the applicant shall submit a final site plan, Master Deed, and Bylaws pursuant to the standards and procedures set forth in Section 3.4.3 of this Ordinance. In addition to the final site plan, the Condominium Documents shall be submitted to the Village for the review by the Village Attorney and other appropriate staff and consultants. The Condominium Documents shall be reviewed with respect to all matters subject to regulation by the Village including, without limitation: ongoing preservation and maintenance of drainage, retention, wetland and other natural and/or common area; maintenance of private roads, if any; and maintenance of storm water, sanitary, and water facilities and utilities.
- b. The applicant shall also submit engineering plans in sufficient detail for the Village, to determine compliance with applicable laws, ordinances and design standards for construction of the project.
- c. Upon completion of the review of the Condominium Documents and engineering plans and receipt of the recommendations and findings from the Village Attorney, Engineer and Planner, the site plan shall be submitted to the Village Council for final review.
- d. If the site plan, Condominium Documents and/or engineering plans conform in all respects to applicable laws, ordinances and design standards, final approval shall be granted by the Village Council.
- e. If the site plan, Condominium Documents and/or engineering plans fail to conform, final approval shall be denied by the Village Council.
- f. In the interest of insuring compliance with this Ordinance and protecting the health, safety and welfare of the residents of the Village, the Village Council,

as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in Section 3.7 of the Zoning Ordinance for the completion of improvements associated with the proposed use.

3.5.4. Required Improvements:

1. All design standards and required improvements that apply to a subdivision, under the Subdivision Regulations adopted by the Village Council, shall apply to any condominium development.
2. Each condominium unit shall be connected to the Village water, sanitary and storm sewers. Utility standards stated in Chapter 70 shall apply to all condominium units. Furthermore, the utility provisions stated in Chapter 10, Subdivision Regulations shall apply to all condominium units proposed for location on property which is not subdivided and recorded, or property which is to be further subdivided. Each individual condominium unit shall be considered a residential equivalent unit as defined in Chapter 10.
3. Monuments shall be set at all boundary corners and deflection points and at all road right of way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

The Village may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year, on condition that the developer deposit with the Village Clerk cash, a certified check, or an irrevocable bank letter of credit running to the Village, whichever the developer selects, in an amount as determined from time to time by resolution of the Village Council. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified. If the developer defaults, the Village Council shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not-to-exceed the amount of the security deposit which shall include Village administrative costs.

4. Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing of public utilities. The developer shall declare easements to the Village for all public water and sanitary sewer lines and appurtenances.
5. All improvements in a site condominium shall comply with the design specifications as adopted by the Village Council and any amendments thereto.

3.5.5. Information Required Prior to Occupancy. Prior to the issuance of an occupancy permit for any condominium unit, the applicant shall submit the following to the Zoning Administrator:

1. A copy of the recorded Condominium Documents (including exhibits , Master Deed, and Bylaws).
2. A copy of any recorded restrictive covenants.
3. A copy of the site plan on laminated photo static copy or mylar sheet.
4. Evidence of completion of improvements associated with the proposed use including two copies of an “as-built survey”.

3.5.6. Revision of Site Condominium Plan. If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.

3.5.7. Amendment of Condominium Documents. Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the Village Attorney and Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.

3.5.8. Relocation of Boundaries. Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the by-laws and recorded as part of the master deed.

3.5.9. Subdivision of Condominium Lot. Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium by-laws and recorded as part of the master deed.

Section 3.6 Use of Consultants.

From time to time, the Village Council and/or Planning Commission may employ planning, engineering, legal, traffic or other special consultants to assist in the review of conditional land use permits, site plans, re-zonings or other matters related to the planning and development of the Village.

Section 3.7 Performance Guarantee.

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the Village and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Village Council upon the recommendation of the Planning Commission shall require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to

insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, streets, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

3.7.1. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of 125% the estimated cost of the improvements to be made as determined by the applicant and acceptable by the Village. The Village shall be authorized to employ the Village engineering consultant to review cost estimates and conduct periodic inspection of the progress of improvements.

3.7.2. Where the Village Council requires a performance guarantee, said performance guarantee shall be deposited with the Village prior to the issuance of a land use permit for the development and use of the land. Upon the deposit of the performance guarantee the Village shall issue the appropriate permits.

3.7.3. The approval shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the land use permit.

3.7.4. The Zoning Administrator, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.

3.7.5. Upon the satisfactory completion, as determined by the Village, of the improvement for which the performance guarantee was required, the Village shall return to the applicant the performance guarantee deposited and any interest earned thereon. However, the Village is not required to deposit the performance guarantee in an interest-bearing account.

3.7.6. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Village, the Village shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically, the right to enter upon the subject property to make the improvements.

If the performance guarantee is not sufficient to allow the Village to complete the improvements, the applicant shall be required to pay the Village any of the additional costs of completing the improvements. Should the Village use the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Village's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Village to insure completion of an improvement the applicant shall not be required to deposit with the Village a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Village and prior to the

issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the Village regarding the performance guarantee.

Section 3.8 Fees.

The Village Council shall establish a schedule of fees, charges, escrow for consultants, and expenses, and a collection procedure, for land use permits, building permits, certificates of occupancy, appeals, and other matters pertaining to this ordinance. The Village shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the Village Offices , and may be altered or amended only by the Village Council. No permit, certificate, conditional use approval, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

Section 3.9 Violations and Penalties.

Uses of land, buildings, or structures, including tents and mobile homes, erected, altered, razed, or converted in violation of this Ordinance are hereby declared to be nuisances per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a fine of not more than "as per Council Resolution" and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed thirty (30) days, or both. Each day that a violation is permitted to exist from the time of formal citation by the Village shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

ARTICLE 4

ZONING DISTRICT REGULATIONS

Section 4.1 District Designations.

For the purpose of the Ordinance, the Village of Lexington is hereby divided into the following districts:

AG	Agriculture District
R-1A	Single-Family Residential, Low Density
R-1B	Single-Family Residential, Medium Density
R-2	Multiple-Family Residential, Low Density
R-3	Multiple-Family Residential, Medium Density
MHP	Mobile Home Park District
C-1	Local Service
C-2	General Commercial
CBD	Central Business District
I-1	Limited Industrial
I-2	General Industrial
PUD	Planned Unit Development (Article 7)

Section 4.2 Zoning District Map.

4.2.1. Identified. The zoning districts as provided in Section 4.1 are bounded and defined as shown on the map entitled "Zoning District Map of the Village of Lexington." The Zoning District Map, along with all notations, references, and other explanatory information, shall accompany and be made a part of this Ordinance.

4.2.2. Authority. Regardless of the existence of purported copies of the Zoning District Map which may be published, a true and current copy of the Zoning District map available for public inspection shall be located in and maintained by the office of the Village Clerk. The Clerk's copy shall be the final authority as to the current status of any land, parcel, lot, district, use, building, or structure in the Village.

4.2.3. Interpretation of District Boundaries. Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning District Map, the following rules shall apply:

1. A boundary indicated as approximately following the centerline of a highway, alley, or easement shall be construed as following such centerline.
2. A boundary indicated approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.

3. A boundary indicated as approximately following a municipal boundary line shall be construed as following such line.
4. A boundary indicated as following a railroad line shall be construed as being located midway in the right-of-way.
5. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in the shoreline shall be construed as following the shoreline existing at the time the interpretation is made.
6. The boundary indicated as following the centerline of a stream or river, canal, lake or other body of water shall be construed as following such centerline.
7. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8. Where an existing physical feature is at variance with that shown on the Official Zoning Map or any other circumstances not covered by (1) through (7) preceding, the Zoning Board of Appeals shall interpret the location of the zoning district boundary.

Section 4.3 Application of District Regulations.

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, buildings, structure, or uses throughout each district.

No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this Ordinance. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner.

4.3.1. Uses in Districts.

1. Permitted Uses. Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning districts or are similar to such listed uses.
2. Accessory Uses and Buildings. Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses.
3. Conditional Uses. Conditional uses are permitted as listed or if similar to the listed conditional uses.

4.3.2. Application of Area and Width Regulations.

1. The area or width of a lot shall not be reduced below the minimum requirements herein established for the district in which such lot is located.
2. Every parcel of land shall meet the minimum lot width requirements set forth in Section 4.5 Schedule of Regulations and shall have frontage on **and/or** direct access to a public street which has been accepted for maintenance by the Village.
3. Except in the R-1A District, access to a single-family dwelling shall be limited to one individual driveway.

4.3.3. Application of Yard Regulations.

1. No part of a yard required for any building for the purposes of compliance with this Ordinance shall be included as a part of a yard or other open space similarly required for another building.
2. All front yard setback lines shall be the minimum perpendicular distance measured from the right-of-way of the road upon which a lot or parcel fronts to the nearest point of the principal structure.
3. All side and rear yard setback lines shall be the minimum perpendicular distance between the nearest point on the side or rear of the structure and the side or rear lot line parallel thereto.
4. On corner lots the required front yards shall be provided along both street frontages.
5. No building, structure, fence, or other permanent improvement shall be permitted to be erected or located within a public right-of-way except for those improvements authorized by the Village.

4.3.4. Application of Height Regulations.

1. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, as set forth in Section 4.5, Schedule of Regulations.
2. Exception to Height Regulations. Roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, and screens, flagpoles, chimneys, smokestacks, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structure shall exceed by more than fifteen (15) feet the height limit of the district in which it is located.
3. Communications towers shall be subject to the regulations set forth in Section 5.23.

4.3.5. Location and Number of Buildings on Lot of Record.

1. Every building erected, altered, or moved shall be located on a lot of record as defined herein.

2. There shall be only one (1) single-family dwelling permitted per lot in the Agriculture or single family zoning districts. Where there is more than one (1) single-family dwelling located on a lot of record at the time of adoption of this Ordinance, said dwelling shall not be divided from the lot except in conformity with the requirements of this Ordinance.

Section 4.4 Purposes and Uses within Zoning Districts. (see also Section 4.5, Schedule of Regulations)

4.4.1. AG, Agriculture District

Purpose. This District is composed of those areas of the Village whose principal use is and ought to be farming. The regulations of this District are designed to conserve, stabilize, enhance and develop farming and related resource-utilization activities, to minimize conflicting uses of parcels, lots, buildings and structures detrimental to or incompatible with these activities, and to prohibit uses of parcels, lots, buildings, and structures which require streets, drainage and other public activities and services of a different type and quantity than those normally required by these activities.

Permitted Uses	Conditional Land Uses
<ol style="list-style-type: none"> 1) A single-family dwelling. 2) Farming operation, which includes the land, plants, buildings, structure, including ponds used for agricultural or aqua cultural activities, machinery, equipment and other appurtenances used in the commercial production of farm products, and in accordance with the Michigan Right to Farm Act, Public Act 93, 1981. 3) A roadside stand, providing it is incidental to a permitted use and provided the nursery stock or other agricultural products sold at the stand are raised on the premises where the stand is located. 4) Public and private recreation and conservation areas, such as: forest preserve; game refuge; recreation parks and reservation; and similar public and private uses of low intensity use. 5) Any accessory use, building or structure incidental to the above uses and regulated in Section 5.4 of this ordinance. 	<ol style="list-style-type: none"> 1) Public and private golf courses, golf driving ranges, clubs, garden, nurseries, and greenhouses. 2) Community and governmental buildings. 3) Public and private nurseries, primary and secondary schools, business schools, colleges and universities. 4) Churches and other institutions for religious worship. 5) Veterinarians, animal clinics and kennels. 6) Essential services.

4.4.2. R-1A, Single-Family Residential District, Low Density

Purpose. This District is composed in those areas of the Village served by a public water supply system and a public sanitary sewer system where the principal use is intended to be single-family dwellings developed at a low density. In addition to the dwellings permitted in this Zoning District, there are certain non-residential and public uses which may be permitted through the conditional approval of the Village.

Permitted Uses

- 1) A single-family dwelling and any use, building or structure accessory thereto.
- (2) Public parks and playgrounds.
- (3) Accessory uses, buildings or structures incidental to the above uses and as regulated in Section 5.4 of this ordinance.
- (4) Home occupations subject to Section 5.10.

Conditional Land Uses

- 1) Cluster housing subject to the provisions of Section 5.2.
- 2) Golf courses, but not including golf driving ranges.
- 3) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds.
- 4) Churches and other institutions for religious worship.
- 5) Public and private nursery schools and kindergartens.
- 6) Group day care homes and day care centers subject to the provisions of Section 5.8.
- 7) Adult Foster Care facilities subject to the provisions of Section 5.9.
- 8) Public and private elementary, middle, and high schools.
- 9) Bed and Breakfast establishments subject to the provisions of Section 5.20.
- 10) Public buildings.
- 11) Two family dwellings.

4.4.3. R-1B, Single-Family Residential District, Medium Density

Purpose. This District is composed of those areas of the Village served by a public water supply system and public sanitary sewer system where the principal use is intended to be single-family dwellings on moderately sized lots. In addition to the dwellings permitted in this Zoning District, there are certain non-residential and public uses which may be permitted through the conditional approval of the Village.

Permitted Uses

- 1) All permitted uses allowed in the R1-A District.

Conditional Land Uses

- 1) All conditional uses allowed in the R-1A District.

4.4.4. R-2, Multiple-Family Residential District, Low Density

Purpose. This District is composed of those areas of the Village where the principal use is intended to be multiple family dwellings. The regulations of this District are designed to permit a lower density of population and land use intensity than is allowed in the R-3 District. Areas zoned R-2 shall be served by a public water supply system and a public sanitary sewerage system, and abut or are adjacent to such other uses, buildings, structures, or amenities which support, complement or serve a multiple-family density. In addition to the dwellings permitted in this Zoning District, there are certain non-residential and public uses which may be permitted through the conditional approval of the Village.

Permitted Uses

- 1) All permitted uses allowed in the R-1A District.
- 2) Two-family dwellings and any use, building or structure accessory thereto subject to Section 5.4.
- 3) Multiple-family dwellings and any use, building, or structure accessory thereto subject to Section 5.4.

Conditional Land Uses

- 1) All conditional uses allowed in the R-1A District.

4.4.5. R-3, Multiple Family Residential District, Medium Density

Purpose. This District is composed of those areas of the Village where the principal use is intended to be multiple family dwellings at a moderate density. The regulations of this District are designed to permit a medium density of population and land use intensity. Areas zoned R-3 shall be served by a public water supply system and a public sanitary sewerage system, and which abut or are adjacent to such other uses, buildings, structures, or amenities which support, complement or serve such a multiple family density. In addition to the dwellings permitted in this Zoning District, there are certain non-residential and public uses which may be permitted through the conditional approval of the Village.

Permitted Uses

- 1) All permitted uses allowed in the R-2 District.

Conditional Land Uses

- 1) All conditional uses allowed in the R-1A District.
- 2) Medical and dental clinics, when associated with a hospital or nursing home.
- 3) Funeral establishments.
- 4) Hospitals, nursing homes, and sanitariums.

4.4.6. MHP - Mobile Home Park Residential District

Purpose. The intent of this District is to provide for mobile home residential development in areas where the natural conditions and features, public services, and infrastructure are capable of supporting such development. Areas zoned MHP shall be located in areas which are compatible with the character and density of adjacent uses.

Permitted Uses

- 1) Mobile home parks subject to the provisions set forth in Section 5.7.
- 2) Parks and playgrounds.

Conditional Land Uses

- 1) All conditional uses allowed in the R-1A District.

4.4.7. C-1, Local Service District

Purpose. The District is designed primarily for the convenience of persons residing in the Village by providing office, limited retail, and business service uses that serve the adjacent and surrounding neighborhoods. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other districts.

Permitted Uses

- 1) Office buildings for the use of any of the following occupations: executive; administrative; professional; accounting; writing; clerical; stenographic; drafting; and sales.
- 2) Medical and dental office, including clinics and medical laboratories.
- 3) Banks, credit unions, savings and loan associations.
- 4) Publicly owned buildings, public utility transformer stations and substations, telephone exchanges, and public utility offices.
- 5) Photographic studios.
- 6) Retail office supply, computer and business machine sales.
- 7) Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services.
- 8) Florist shops.
- 9) Personal service establishments, such as barber and beauty shops; watch, clothing and shoe repair; locksmith; and, similar establishments.
- 10) Outdoor display of products or materials for retail sale or rental when accessory to a principle permitted use subject to the requirements of Section 5.18.
- 11) A single-family dwelling and any use, building or structure accessory thereto, established and existing at the time of adoption of this Ordinance.
- 12) Sit down or take out restaurants.

Conditional Land Uses

- 1) Private service clubs, social organizations and lodge halls.
- 2) Funeral homes.
- 3) Multiple-family housing and/or apartment dwelling second floor and above.
- 4) Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted
- 5) Bed and breakfast establishments subject to the provisions of Section 5.20.
- 6) Bar/lounge serving beverages and /or providing entertainment.

4.4.8. C-2, General Commercial District

Purpose. This District is intended to accommodate office, business service, and retail uses that serve a larger market than C-1 District including the Village and portions of the surrounding townships. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other Districts.

Permitted Uses

- 1) All permitted and conditional uses allowed in C-1 Local Service District, with the exception of single family dwellings.
- 2) Food services including grocery, meat market, bakery, restaurant, delicatessen and fruit market, and similar self-service units but not including any business of a drive-in type.
- 3) Retail sales of drug and health care products, hardware, gifts, dry goods, notions, sporting goods, clothing, furniture, and appliances.
- 4) Radio, television, and electrical appliance repair, and shops of plumbers, electricians and other similar services and trades.
- 5) Sit down and/or carry out restaurants.
- 6) Laundromats and dry cleaning establishments.
- 7) Planned shopping centers.
- 8) Accessory uses, buildings, or structures.

Conditional Land Uses

- 1) Bar/lounge serving alcoholic beverages and/or providing entertainment.
- 2) Fast food restaurants.
- 3) Lodging facilities.
- 4) Outdoor sales of manufactured products subject to the requirements set forth in Section 5.15.
- 5) Sale of new and used automobiles, boats, mobile homes, farm machinery, and other vehicles provided outdoor sales comply with the requirements set forth in Section 5.15.
- 6) Automobile service stations and washes subject to the requirements set forth in Section 5.17.
- 7) Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks, billiard halls and miniature golf.
- 8) Farm supply and feed stores.

4.4.9. CBD, Central Business District

Purpose. This District is designed to provide for a variety of office, business service, entertainment and retail uses which occupy the prime retail frontage, by serving the comparison, convenience, and service needs of the market area which includes the Village and surrounding Townships. The regulations of the CBD District are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive-related services including gasoline retail outlets and non-retail uses which tend to break up such continuity.

Permitted Uses

- 1) All permitted uses allowed in the C-2 District.
- 2) Theaters, when completely enclosed.
- 3) Newspaper offices and printing and photocopying services.
- 4) Post Offices.
- 5) Private Service clubs, social organizations and lodge halls.
- 6) Parks and playgrounds.

Conditional Land Uses

- 1) Bar/lounge serving alcoholic beverages and/or providing entertainment.
- 2) Fast food restaurants.
- 3) Lodging facilities.
- 4) Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks and billiard halls.
- 5) Multiple-family housing and/or apartment dwellings on the second floor and above.
- 6) Sidewalk cafe service, operated by a restaurant or other food establishment which sells food for immediate consumption, subject to the requirements set forth in Section 5.19.

4.4.10. I-1, Limited Industrial District

Purpose. This District is designed to accommodate industrial, storage, and other uses that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is the purpose of these regulations to permit development of the enumerated functions to protect surrounding areas from incompatible industrial activities, to restrict the intrusion of non-related uses such as residential, agricultural, business and commercial, except retail businesses that normally do not require the customer to call at the place of business, and to encourage the discontinuance of uses presently existing in the district which are non-conforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this District.

Permitted Uses

- 1) Research oriented and light industrial park uses.
- 2) Printing plants, lithographic, blueprinting, commercial laundries, dry cleaning establishments, wholesale business, ice and cold storage plants, lumber, fuel and feed supply yards, and other similar uses.
- 3) Light manufacturing, research, assembly, testing and repair of components, devices, equipment and systems of professional scientific and controlling instruments, photographic and optical goods, including the following:
 - (a) Communication, transmission and reception equipment such a coils, tubes, semi-conductors, navigation control equipment and systems guidance equipment.
 - (b) Data processing equipment and systems.
 - (c) Graphics and art equipment.
 - (d) Metering instruments.
 - (e) Optical devices, equipment, and systems.
 - (f) Stereo, audio units, radio equipment and systems.
 - (g) Photographic equipment.
 - (h) Radar, infra-red and ultra violet equipment and systems.
 - (i) Scientific and mechanical instruments such as calipers and transits.
 - (j) Testing equipment.
- 4) Light manufacturing, processing or assembling of the following:
 - (a) Biological products, drugs, medicinal chemicals, and pharmaceutical preparation.
 - (b) Electrical machinery, equipment and supplies, electronic equipment and accessories.
 - (c) Office, computing, and accounting machines.

Permitted Uses Continued

- 5) Research and design centers where said center are intended for the development of pilot or experimental products, together with related office buildings for such research facilities where said offices are designed to accommodate executive, administrative, professional, accounting, engineering, architectural, and support personnel.
- 6) Data processing and computer centers including the servicing and maintenance of electronic data processing equipment.
- 7) Warehousing, refrigerated and general storage, but not including self-storage facilities.
- 8) Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services.
- 9) Training and/or educational centers where such centers are designed and intended to provide training at the business, technical and/or professional level.

Conditional Land Uses

- 1) Restaurants and cafeteria facilities for employees.
- 2) Trucking and transit terminals.
- 3) Contractors' establishments subject to the requirements set forth in Section 5.16.
- 4) Metal fabrication, and tool and die shops.
- 5) Automobile repair garages and paint shops for autos and other vehicles, construction and farm equipment sales.
- 6) Computer and business machine sales when conducted in conjunction with and accessory to a permitted principal use.
- 7) Self-storage facilities, subject to the requirement of Section 5.14.
- 8) Cemetery.

4.4.11. I-2, General Industrial District

Purpose. This District is designed to provide the location and space for all manner of industrial, wholesale, and industrial storage uses. It is the purpose of these regulations to permit the development of certain functions, to protect the surrounding areas from incompatible industrial activities, to restrict the intrusion of non-related uses such as residential, retail business and commercial, and to encourage the discontinuance of uses presently existing in the District, which are non-conforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other Districts and which would interfere with the operation of the uses permitted in this District.

Permitted Uses

- 1) All permitted uses allowed in I-1 District.
- 2) Contractor's establishments provided all products, material, and equipment are stored within an enclosed building.
- 3) Trucking and cartage facilities, truck and industrial equipment storage yards, repairing and washing equipment and yards.
- 4) Manufacturing, processing, packaging or assembling of the following:
 - (a) Pharmaceutical preparations, cosmetics and toiletries.
 - (b) Plastic products such as laminate, pipe, plumbing products, and miscellaneous molded or extruded products.
 - (c) Stone, clay, glass and leather products.
 - (d) Food products, bakery goods, candy and beverages.
 - (e) Prefabricated buildings and structured members.
 - (f) Appliances.
- 5) Metal fabrication and tool and die shops.
- 6) Fabrication of paper and wood products such as office supplies, bags, books, cabinets, furniture and toys.
- 7) Packaging operations, but not including baling of discarded or junk materials, such as, but not limited to: paper, cloth, rags, lumber, metal or glass.
- 8) Printing, publishing, or related activities.
- 9) Manufacture and repair of signs, and heating and ventilating equipment.
- 10) Recycling operations.

Conditional Land Uses

- 1) Mineral mining and extractive operations subject to the requirements set forth in Section 5.21.
- 2) Major automobile repair facilities and collision shops.

Section 4.5 Schedule of Area, Height, Width and Setback Regulations

Zoning District	Minimum Lot Size		Maximum Building Height Space		Minimum Yard Setback			Max. Lot Coverage	Footnotes	
	Area (sq ft)	Lot width	Stories	Feet	Front	Side	Rear Total			
Agriculture District, AG	1 acres	150 ft	2-1/2	35 (75 farm bldgs)	50 ft	20 ft	40 ft.	50 ft	15%	(see A, E, F and H)
Single-Family Residential, Low Density, R-1A	12,000	100 ft	2-1/2	35	25 ft	10 ft	25 ft	35 ft	35%	(see A, E, F, H, J, K and L)
Single-Family Residential, Medium Density, R-1B	8,500	66 ft.	2-1/2	35	25 ft	8 ft	20 ft	35 ft	45%	(see A, E, F, H, J, K and L)
Multiple-Family Residential, Low Density, R-2	SF: 10,000	90 ft	2-1/2	35	25 ft	8 ft	20 ft	35 ft	35%	(see A, B, D, E, H, J and L)
	2F: 20,000	120 ft	2-1/2	35	25 ft	8 ft	20 ft	35 ft		
	MF: 20,000	120 ft	2-1/2	35	35 ft	10 ft	25 ft	35 ft		
Multiple-Family Residential, Medium Density, R-3	SF: 10,000	90 ft	2-1/2	35	25 ft	8 ft	20 ft	35 ft	35%	(see A, C, D, E, F, H, J and L)
	2F: 20,000	120 ft	2-1/2	35	25 ft	8 ft	20 ft	35 ft		
	MF: 3acres	300 ft	2-1/2	35	50 ft	20 ft	50 ft	50 ft		
Mobile Home Park, MHP	10 acres	(see Sec. 5.7)	2-1/2	35	(see Section 5.7)					(see A,E and J)
Local Service, C-1	5,000	50 ft	2-1/2	35	10 ft	0ft	0 ft	20 ft	50%	(see A, E, I, J and L)
General Commercial, C-2	20,000 sq ft	100 ft	2-1/2	35	50 ft	10 ft	20 ft	20 ft	50%	(see A, E, I, J and L)
Central Business District, CBD	---	---	3	45	0 ft	0 ft	0 ft	20ft	---	(see A, E, G, I, J and L)
Limited Industrial, I-1	1 acre	100 ft	2	40	50 ft	15 ft	30 ft	20 ft	75%	(see A, E and J)
General Industrial, I-2	3 acres	200 ft	2	40	85 ft	50 ft	100 ft	50 ft	25%	(see A and E)

SF: = Single-Family Dwellings
 2F: = Two-Family Dwellings
 MF: = Multiple-Family Dwellings

Section 4.5.1. Footnotes to Schedule of Area, Height, Width and Setback Regulations.

- A. All dwelling units and occupied buildings shall be served with a public water supply system and a public sanitary sewer system.
- B. Lot Area and Density. Every lot or parcel of land occupied by a low density multiple-family structure shall contain a minimum of twenty thousand (20,000) square feet and a total area of not less than the following:

<u>Unit Type</u>	<u>Lot Area/Dwelling Unit</u>
Efficiency	4,800 square feet
One bedroom	6,000 square feet
Two bedroom	6,700 square feet
Every additional bedroom	1,300 square feet

- C. Lot Area and Density. Every lot or parcel of land occupied by a medium density multiple-family dwelling structure shall contain a minimum area of three (3) acres and a total area of not less than the following:

<u>Unit Type</u>	<u>Lot Area/Dwelling Unit</u>
Efficiency	1,900 square feet
One bedroom	2,300 square feet
Two bedroom	3,000 square feet
Every additional bedroom	700 square feet

- D. Distance between Buildings. In addition to the required setbacks from property boundaries, the following minimum distances shall be required between each multiple family structure:
 - (a) where buildings are front to front or front to rear, three (3) times the height of the taller building, and not less than seventy (70) feet.
 - (b) where buildings are side to side, one and one-half (1.5) times the height of the taller building, but not less than twenty (20) feet.
 - (c) where buildings are front to side, rear to side, or rear to rear, two (2) times the height of the taller building but not less than thirty-five (35) feet.

In applying the above standards, the front of the building shall mean that the face of the building having greatest length and contains the primary entrance to the building; the rear is that face opposite the front. The side is the face having the smallest dimension.

- E. The minimum distance of any principal building from the ordinary high water mark shall be fifty (50) feet.
- F. Driveways to single family dwellings shall be located in the greater side yard setback.

G. Any structure located within the CBD which abuts a dwelling located within the AG, R-1A or R-1B District shall have a minimum setback from the common property line of ten (10) feet.

H. The minimum floor area of dwelling units shall be as follows:

Type of dwelling	Total Usable Floor Area (sq. ft.)
One-family	1000
Two-family, per dwelling unit	800
Multiple-family:	
Efficiency Unit	600
1 bedroom unit	800
2 bedroom unit	1000
3 bedroom unit	1200
4 bedroom unit	1400
Each additional bedroom	100

I. All stores with in a shopping center or a free standing building shall have a minimum of 1000 square feet of floor space. Conditional uses for certain combinations of retail business exist where less than a 1000 sq. ft. is required.

J. Accessory buildings are regulated by Section 5.4.1

K. Decks and porches are conditionally allowed within the front setback area if they are not supported by a permanent foundation. A land use permit is required and approval is made on a case by case basis by the Planning Commission. Existing non-conforming decks and porches may be replaced without a land use permit provided the replacement is of the same size and in the same location.

L. No residential or commercial building shall be built of steel exterior wall construction.

ARTICLE 5

GENERAL AND SPECIAL PROVISIONS

Section 5.1 Intent.

The intent of this Article is to provide for those regulations which generally apply regardless of the particular zoning district and to those conditional uses which may be permitted in certain zoning districts.

Section 5.2 Cluster Housing Option.

The cluster housing option may be applied for as a conditional use in R-1A, R-1B, R-2 and R-3 Districts subject to the standards set forth in Section 3.3, Conditional Land Uses, and this Section.

5.2.1. Intent. The intent of the cluster housing option is to permit the development of single-family residential patterns which, through design innovation, will:

- allow greater flexibility;
- encourage a more creative approach to the development of single-family residential areas;
- encourage a more efficient, aesthetic, and desirable use of the land;
- provide a more desirable living environment through the preservation and conservation of natural features such as topography, wetlands, woodlands, bodies of water, and other natural assets; and
- encourage the provision of open space so that benefits may accrue directly to the residents of the development or the community as a whole.

5.2.2. Qualification of Parcels. The parcel must be located in a district zoned for residential use and must meet one (1) or more of the following characteristics listed below. Requests for qualification under these conditions must be supported by documented evidence supplied by the applicant in either narrative or graphic form.

Parcel Characteristics Qualifications:

1. The parcel contains natural assets which would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, wetlands, bodies of water, unusual topographic features, or other natural assets which should be preserved. Requests for qualification under these conditions must be supported by documented evidence.
2. The parcel contains major topographic conditions which would require mass grading resulting in loss of significant natural features.

3. The parcel contains substantial portions of flood plain and wetlands. A flood plain and wetlands map indicating the extent of the wetlands and flood plain area shall be submitted to the Planning Commission in order to support the proposal for the parcel's qualification for cluster development.
4. The parcel, due to its size or shape, cannot be reasonably developed as a conventional subdivision or site condominium development.

5.2.3. Site Design Requirements. All cluster developments submitted under this option shall conform to the following site design requirements:

1. Development is permitted as either attached or detached dwelling units, provided the number of attached units shall not exceed twenty (20%) percent of the total number of units in an R-1A or R-1B District, respectively.
2. Open space. When completed, the development shall have twenty (20%) percent of the gross acreage in the development devoted to open space, which shall remain in its natural state and/or be restricted to active and/or passive outdoor recreational purposes. Dedication of open space shall comply with the standards set forth in Section 5.3. Designated open space shall include area within any greenbelts required by Sections 5.2.3.3 and 5.2.3.4, subject to the restrictions contained herein.

The computation of designated open space shall not include: rights-of-way or easements designated for road purposes; areas within the minimum setbacks of a dwelling unit; land which is under water (lakes, streams, water courses, and other similar bodies of water); any area to be improved into a lake or pond; and/or more than twenty-five (25) percent of the area of regulated wetlands.

3. Greenbelt Adjacent and Parallel to Public Streets. In addition to any required minimum setback specified in Section 5.2.3.6, a greenbelt, the minimum width as set forth below, shall be required along any adjacent public street. The greenbelt shall be measured from the street right-of-way. The Village, at its discretion, may permit either reductions or variations in width of the greenbelt taking into consideration topographic and/or other natural resource conditions, density of existing vegetation to be preserved, and size and shape of the development site.
4. Transition from Adjacent Parcels: In order to provide an orderly transition for access and density between the proposed development and adjacent areas when a cluster development abuts a single-family residential district, the Planning Commission, at its discretion, may require one or more of the following measures: location of streets to meet up with adjacent streets, an area or row of lots of comparable size as the neighboring residential lots, designation of open space along the common boundaries, and/or screening in accordance with the requirements of Section 6.2.4 of this Ordinance.

The following minimum greenbelt from adjacent public streets shall be applied:

**Minimum Width of Greenbelt from
Adjacent Public Streets**

<u>District</u>	<u>(in feet)</u>
R-1A	50
R-1B	50
R-2	50
R-3	75

4. Transition from Adjacent Parcels. In order to provide an orderly transition of density when a cluster development abuts a single-family residential district of equal or lower density, the Planning Commission, at its discretion, may require one (1) or more of the following measures: designation of open space along the common boundaries; screening in accordance with the requirements of Section 6.2.4; and/or an area or row of lots of commensurate size as neighboring residential lots.

5. Density. The number of dwelling units within any development permitted hereunder shall not exceed the number of dwelling units permitted in the Zoning District in which the proposed development is located without application of the cluster housing option. The applicant must submit a concept plan that illustrates a site layout without the cluster option and all applicable ordinances and laws observed.

6. Setbacks. Minimum setback requirements are established in a manner which permits variation in the siting of individual dwelling units in order to encourage creativity in design and compatibility with natural resource features. The minimum setback requirements for each dwelling unit shall be shown on the site plan as follows:
 - a. In the case of single-family detached dwellings, the following minimum setbacks shall be applied:

Minimum Yard Setbacks Per Unit

<u>District</u>	<u>Front</u>	<u>Rear</u>	<u>Total Front & Rear</u>	<u>Side Least</u>	<u>Total</u>
R-1A	20	30	55	5	15
R-1B	20	30	55	5	15
R-2	20	30	55	5	15
R-3	20	30	55	5	15

- b. In the case of single-family attached dwellings, the following minimum setbacks shall be required:

Minimum Setback

	<u>from internal drives & streets</u>	<u>from perimeter property boundaries</u>
R-1A	20	50
R-1B	20	50
R-2	20	50
R-3	20	50

- c. In the case of single-family attached dwellings, the minimum distance between buildings shall comply with Section 4.5.1.D.

7. **Required Street Frontage.** Any cluster lot contained within a cluster lot development shall have frontage on and direct access to a public street which has been accepted for maintenance by the Village. The extent of street frontage shall be determined by the Village, in its discretion, taking into consideration topographic and/or other natural resource considerations, size and shape of the development site, and public safety factors.

5.24 MAILBOXES (No public hearing conducted)

Village of Lexington Mailbox Zoning Ordinance –

Placement of mailboxes/newspaper boxes in Right of Way

What You Need To Know About Your Mailbox Location

The location and construction of mailboxes shall conform to the rules and regulations of the U.S. Postal Service and the following standards established by the Village of Lexington. These standards were based on **A Guide for Erecting Mailboxes on Highways**, published by the American Association of State Highway and Transportation Officials, 1994.

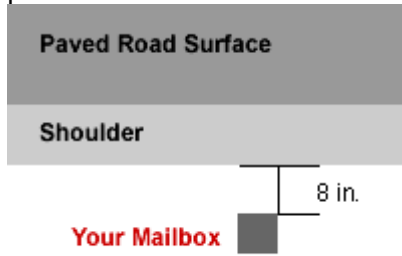
Contact your local Post Office for instructions on the height (normally 42-46") and side of the road where you mailbox should be located.

Location

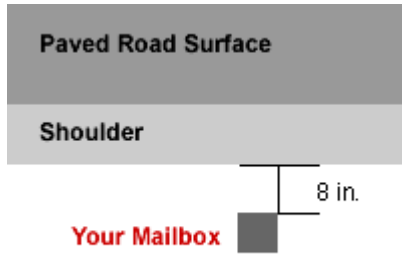
- On paved roads, the roadside face of the box must be offset the width of the shoulder plus 8 inches. If no shoulder, mailbox should be placed 8 inches from the edge of the

Curb

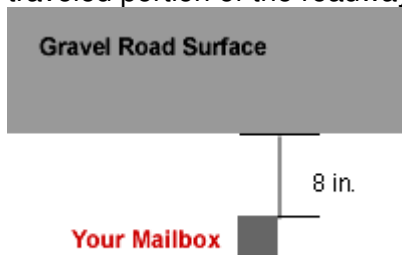
paved road surface.



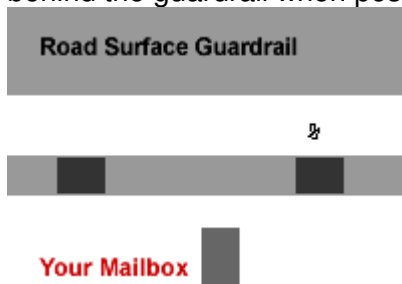
- On curbed streets, the roadside face of the box must be 8 inches from the face of the curb.



- On gravel roads, the roadside face of the box must be 8 inches from the edge of the traveled portion of the roadway.



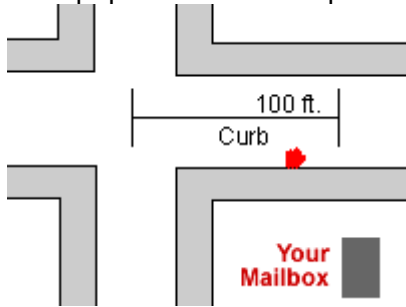
- When a mailbox is installed in the vicinity of a guardrail, the box should be placed behind the guardrail when possible with the face of the box even with the back of rail.



- When a mailbox is located at an intersection, the box must be a minimum of 80 feet beyond the center of the intersection in the direction of the postal route. The mailbox or

80 ft

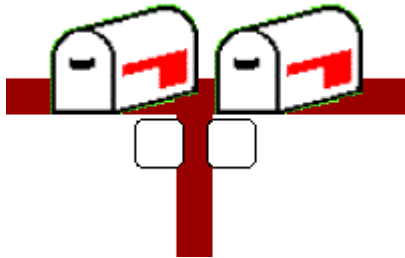
newspaper box must be placed on the street of the legal home address.



- Mailboxes must be constructed of sheet metal, plastic or similar weight materials, with weight not to exceed 11 lbs.
- Newspaper boxes may be mounted below the mailbox on the side of the mailbox support.



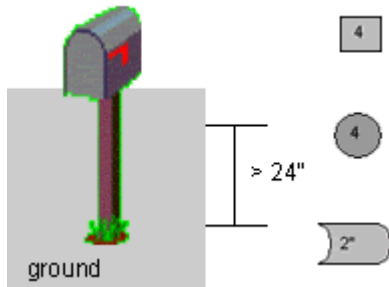
- It's the applicant's responsibility to contact **MISDIGS** before construction
- No more than two mailboxes can be mounted on a support structure unless the configuration has met U.S. Department of Transportation crash test standards



- Multiple installations must meet the same criteria as single mailbox installations.



- A single 4x4 inch square or 4 inch diameter wooden post, or light gage pipe with strength no greater than 2 inch standard steel pipe must be embedded no more than 24 inches in the ground.



- The mailbox and its support will be considered hazardous to motorists when the support exceeds the described structural limitations. Mailbox supports that exceed these criteria, such as brick, concrete, steel and wood pillars are not permitted.
- Mailboxes with improper specifications or locations in the right-of-way will find the property owner assuming liability until they are removed or corrected.

Any mailbox that is in violation of these Regulations shall be immediately removed by the owner upon notification from the Village of Lexington Zoning Administrator. If the owner has not removed the mailbox, the Village of Lexington Zoning Administrator in accordance with M.S.A. 9.251 will issue the owner an Encroachment Removal Order, whereupon the owner will be granted 30 days to remove the unacceptable mailbox. Thereafter, the mailbox will be removed by the Village of Lexington at the owner's expense.

For damages caused by Village of Lexington DPW in snow removal operations, a reimbursement to the property owner shall be made in the amount not to exceed \$30.00.

It is the intent of this ordinance that the Village of Lexington will deal with the public fairly, when handling replacement/repair of mailboxes which may have been damaged by Village vehicles.

Any mailboxes or newspaper boxes that were erected prior to this ordinance must conform to this ordinance if it is removed or altered for any reason including damage from a vehicle, vandalism, theft, etc. No mailboxes or newspaper boxes can be constructed in the village right of way unless they are permitted and comply to this ordinance.

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Section 5.3 Open Space Preservation.

5.3.1 Whenever the preservation of open space is required by this Ordinance, the applicant shall provide a demonstrated means that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Village and the land uses continue as approved in the open space community plan.

The dedicated open space shall be set aside by the applicant through an irrevocable conveyance that is found acceptable to the Village Attorney, such as:

1. Recorded deed restrictions.
2. Covenants that run perpetually with the land,
3. Conservation easements such as those established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).

5.3.2. Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space.
2. Demonstrate to the satisfaction of the Village that dedicated open space shall be maintained.
3. Provide standards for scheduled maintenance of the open space.
4. Provide for maintenance to be undertaken by the Village in the event that the dedicated open space is inadequately maintained, or is determined by the Village to be a public nuisance, with the assessment of costs upon property owners within the proposed development.

Section 5.4 Accessory Buildings and Uses.

5.4.1. Requirements Applicable to Accessory Buildings.

1. No accessory building or structure shall be built upon a lot or parcel unless and until a principal structure is erected.
2. Where the accessory building is structurally attached to a main building, it shall conform to all setback and height regulations of this Ordinance and building codes applicable to main buildings.
3. The sum total floor area of all accessory buildings and structures shall not exceed fifty (50%) per cent of the total floor area of all stories of the principal building.
4. Accessory buildings and structures shall be included in lot coverage limitations.
5. The sum total floor area of all detached accessory buildings and structures shall not exceed twenty-five (25%) per cent of the total required and non-required rear yard area.

6. No detached accessory building or structure shall exceed twelve (12) feet in overall height.
7. In no instance shall an accessory building or structure be located within a dedicated easement or right-of-way.
8. A building or structure not attached to a principal building shall be considered a detached accessory building or structure.
9. Detached accessory structures shall be erected only in a rear yard. If the lot is a corner lot, accessory structures shall remain behind all building lines adjacent to streets. In MHP districts, structures must be placed in the rear half of the lot.
10. No detached accessory building or structure shall be constructed within ten (10) feet of any other building located on the same lot or parcel.
11. Accessory buildings and structures located in rear yards shall not be closer than ten (10) feet to any rear or side lot line except as stated otherwise in this section. In R-1B districts, they shall not be closer than five (5) feet to any rear or side lot line. In C-1, CBD, AND MHP districts, they shall not be closer than three (3) feet to any rear or side lot line. All accessory buildings and structures shall not be located closer than three (3) feet to a public easement.
12. Accessory structures shall be subject to all applicable building code regulations of the Village of Lexington. No building shall be built of steel exterior wall construction except for prefabricated sheds less than 100 SF in all districts except I-1, I-2, AG, and MHP.

5.4.2. Private swimming pools shall be subject to the following:

1. No portion of the swimming pool or associated structures shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use.
2. Front yard and side yard setbacks shall comply with required setbacks specified for the zoning district wherein the pool is located. Rear yard setbacks shall be a minimum of fifteen (15) feet.
3. All swimming pools shall be enclosed in accordance with applicable Building Codes.

5.4.3. Requirements Applicable to Accessory Buildings Within All Other Districts: Accessory buildings shall be subject to the same placement and height requirements to principal structures in the District in which located if not regulated by Section 5.4.1.

5.4.4 Detached garages may be placed in side or rear yards. The maximum height is limited to the height of the principal structure or twenty-four (24) feet, which ever is less. No living quarters may be placed in a detached garage.

Section 5.5 Emergency Temporary Dwellings.

5.5.1. When permitted. Emergency temporary dwellings may be permitted upon a finding by the Village that the principal residential structure has been destroyed in whole or in part by fire, explosion or natural disaster and therefore is uninhabitable and the standards set forth herein have been met.

5.5.2. Permit application and review.

1. An application for a permit for the emergency temporary use and installation of a mobile home, modular, or prefabricated dwelling unit shall be made to the Zoning Administrator. The application shall be accompanied by a plot plan showing the location of the proposed structure.
2. The application shall be reviewed by a committee composed of the Zoning Administrator and two elected Village Council members, other than the Zoning Administrator. Approval of the application may be granted by a majority vote of the committee upon a finding that all of the following conditions are met:
 - a. The principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable.
 - b. The temporary dwelling unit will be connected to public sewer and water.
 - c. The temporary dwelling unit complies with all applicable Zoning District requirements including setback, area, bulk, and other requirements, except minimum house size requirements.
3. The granting of a permit for an emergency temporary dwelling unit shall be for a period of up to one (1) year from the date of approval by the committee. Any conditions of approval shall be specified in writing on the permit.
4. To guarantee compliance with the provisions of the ordinance and removal of the emergency temporary dwelling upon expiration of the permit, the Village Council may require a cash bond to be posted prior to the issuance of a permit.

Section 5.6 Single-Family Dwellings, Mobile Homes, Prefabricated Housing.

No single-family dwelling (site built), mobile home, modular housing, or prefabricated housing located outside a mobile home park or mobile home subdivision shall be permitted unless said dwelling unit conforms to the following standards:

5.6.1. Square Footage. Each such dwelling unit shall comply with the minimum square footage requirements of this Ordinance for the zone district in which it is located.

5.6.2. Dimensions. Each such dwelling unit shall have a minimum width across any front, side, or rear elevation of twenty (20) feet and shall comply in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.

5.6.3. Foundation. Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of such dimensions to adequately support the dwelling. All dwellings shall be securely anchored to the foundation in order to prevent displacement during windstorms.

5.6.4. Undercarriage. Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

5.6.5. Sewage Disposal or Water Supply. Each such dwelling unit shall be connected to public sewer and water.

5.6.6. Storage Area. Each such dwelling unit shall contain a storage capability area either in a basement located under the dwelling, in an attic area, or in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, which ever shall be less.

5.6.7. Architecture and Compatibility. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator. The Zoning Administrator may also refer any determination of compatibility to the Planning Commission. Any determination of compatibility shall be based upon the character, design, and appearance of one (1) or more residential dwellings located outside of mobile home parks within five hundred (500) feet of the subject dwelling. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity.

All homes shall have a roof overhang of not less than six (6) inches on all sides or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling. The dwellings shall not have less than two (2) exterior doors with the second one (1) being in either the rear or side of the dwelling. Steps shall also be required for exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

5.6.8. Additions. Each such dwelling unit shall contain no addition or room or other area which is not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

5.6.9. Code Compliance. Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended or superseded. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

5.6.10. Building Permit. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Building Code provisions and requirements.

5.6.11. Exceptions. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the Village unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this Ordinance.

Section 5.7 Mobile Home Park Requirements.

The Mobile Home Code, as established by the Mobile Home Commission and the Michigan Department of Public Health Rules under the authority of the Mobile Home Commission Act, Public Act 96 of 1987, as amended, regulates development of mobile home parks. All mobile home parks must be constructed according to the standards of the Code.

In addition to the rules and standards of the State of Michigan, The Village of Lexington imposes the following conditions:

5.7.1. Mobile Home Parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Mobile Home Commission Act, Act 96 of 1987, as amended, and subsequently adopted rules and regulations governing mobile home parks.

5.7.2. Mobile Home Parks shall not be permitted on parcels less than ten (10) acres in size.

5.7.3. Individual mobile home sites within a mobile home park shall have a minimum lot size of 4,500 square feet per mobile home being served. This 4,500 square foot minimum may be reduced by twenty (20%) percent, provided that the individual site shall be equal to at least 3,600 square feet. For each square foot of land gained through this reduction of the site below 4,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under R125.1946, Rule 946 of the Michigan Administrative Code.

5.7.4. The on-site storage of boat trailers, boats, camping units, horse trailers and similar recreational equipment shall be prohibited on mobile home sites and in designated open space areas. The mobile home park may provide, within the confines of the park, a common outdoor storage area for the storage of the above mentioned equipment.

5.7.5. Mobile home parks shall be landscaped as follows:

1. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.
2. If the park abuts a non-residential development, the park need not provide screening.
3. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

The landscaping shall consist of evergreen trees or shrubs a minimum three (3) feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.

5.7.6. Mobile Home Parks shall be subject to preliminary plan review requirements in accordance with PA 96 of 1987, as amended.

5.7.7. A permit shall not be required for the construction or erection of canopies or awnings which are open on three (3) sides. A land use permit and a building permit shall be required, however, before the construction or erection of any screened, glassed-in, or otherwise enclosed awning or canopy.

Section 5.8 Day Care Facilities.

5.8.1. Intent. It is the intent of this section to establish standards for day care facilities which will insure compatibility with adjacent land uses and maintain the character of the neighborhood.

5.8.2. Application of Regulations.

1. A State licensed Family Day Care Home shall be considered a residential use of property and a permitted use in all residential districts. Family Day Care Homes shall be prohibited in all other districts.
2. The Village Council may, by issuance of a conditional use permit, authorize the establishment of Group Day Care Homes and Day Care Centers as specified in District regulations and subject to the standards herein.

5.8.3. Standards for Group Day Care Homes. Group Day Care Homes shall be considered as conditional land use subject to the requirements and standards of Section 3.3 and the following additional standards:

1. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located.
2. The property is maintained in a manner that is consistent with the character of the neighborhood.

3. There shall be an outdoor play area of at least five hundred (500) square feet provided on the premises. Said play area shall not be located within the front yard setback. This requirement may be waived by the Planning Commission if a public play area is within five hundred (500) feet of the subject parcel.
4. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four (4) feet in height, but no higher than six (6) feet.
5. The hours of operation do not exceed sixteen (16) hours within a twenty-four (24) hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents.
6. One (1) off-street parking space per employee not a member of the Group Day Care Home family shall be provided.
7. Appropriate licenses with the State of Michigan shall be maintained.

5.8.4. Standards for Day Care Centers. Day Care Centers shall be considered as a conditional land use subject to the requirements and standards of Section 3.3 and the following standards:

1. The Day Care Center shall be served by public sewer and water.
2. A separate drop-off and pick-up area shall be provided adjacent to the main building entrance, located off of a public street and the parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway.
3. Off-street parking shall be provided at a rate of one (1) space per employee plus one space for every five (5) children enrolled at the facility
4. There shall be an outdoor play area of at least 1,000 square feet provided on the premises. Said play area shall not be located within the front setback. This requirement may be waived by the Planning Commission if public play area is available five hundred (500) feet from the subject parcel.
5. Appropriate licenses with the State of Michigan shall be maintained.

Section 5.9 Adult Foster Care Facilities.

5.9.1. Intent. It is the intent of this section to establish standards for adult foster care facilities which will insure compatibility with adjacent land uses and maintain the character of the neighborhood.

5.9.2. Application of Regulations.

1. A State licensed Adult Foster Care Small Group Home serving six (6) persons or less and Adult Foster Care Family Home shall be considered a residential use of property and a permitted use in all residential districts.

2. The Village may, by issuance of a conditional use permit, authorize the establishment of Adult Foster Care Small Group Homes serving more than six (6) persons and Adult Foster Care Large Group Homes in the following zoning districts: R-1A, R-1B, R-2 and R-3. Such facilities shall be prohibited in all other districts.
3. The Village may, by issuance of a conditional use permit, authorize the establishment of an Adult Foster Care Congregate Facility in the following zoning districts: R-2 and R-3. Such facilities shall be prohibited in all other districts.

5.9.3. Standards for Adult Foster Care Small Group Homes serving more than six (6) persons and Adult Foster Care Large Group Homes. Such homes shall be considered as conditional land use subject to the requirements and standards of Section 3.3 and the following additional standards:

1. A site plan, prepared in accordance with Section 3.4, shall be required to be submitted.
2. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or care givers.
3. The property is maintained in a manner that is consistent with the character of the neighborhood.
4. One (1) off-street parking space per employee and/or caregiver shall be provided.
5. In its sole discretion, the Village may determine that landscape screening in accordance with Section 6.2.4 is required.
6. Appropriate licenses with the State of Michigan shall be maintained.

5.9.4. Standards for Adult Foster Care Congregate Facilities. Such facilities shall be considered as a conditional land use subject to the requirements and standards of Section 3.3 and the following standards:

1. A site plan, prepared in accordance with Section 3.4, shall be required to be submitted.
2. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or caregivers.
3. Parking requirements as required for convalescent homes and similar facilities, set forth in Article 10 shall be met.
4. All landscape requirements set forth in Section 6.2 shall be met.

5. Appropriate licenses with the State of Michigan shall be maintained.

Section 5.10 Home Occupations.

Home occupations may be permitted in single family residences subject to the following requirements:

5.10.1. A Home Occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes. No more than twenty (20%) percent of the floor area of dwelling shall be devoted to a home occupation.

5.10.2. A Home Occupation use shall not change the character of the residential nature of the premises, both in terms of use and appearance.

5.10.3. A Home Occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such Home Occupation.

5.10.4. A Home Occupation shall not generate sewage or water use in excess of what is normally generated from a single-family dwelling in a residential area.

5.10.5. No employees shall be permitted other than members of the immediate family residing in the dwelling unit unless specifically approved in advance.

5.10.6. All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a Home Occupation. An unanimated, non-illuminated wall sign less than four (4) square feet is allowed provided a permit is granted.

5.10.7. There shall be no vehicular traffic permitted for the Home Occupation, other than that which is normally generated for a single dwelling unit in a residential area, both as to volume and type of vehicles. Off street parking is required for any employees. Parking layout will be subject to lot size and characteristics of the neighborhood.

5.10.8 Hours of operation will be stated in the conditional use permit.

Section 5.11 Seasonal Sales.

The sale of Christmas trees, pumpkins, firewood, and other seasonal items shall be considered temporary uses within any zoning district subject to the conditions contained herein. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties. Adequate parking and ingress and egress to the premises shall be provided. Upon discontinuance of the seasonal use, any temporary structures shall be removed. Signs shall conform to the provisions of the district in which the seasonal use is located. A land use permit is required prior to operating a seasonal sales business.

Section 5.12 Garage Sales, Rummage Sales, and Similar Activities.

Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the conditions contained herein. Any garage sale, rummage sale, or similar activity shall be allowed with a permit for a period not to exceed three (3) days twice within a calendar year. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties. No signs advertising a garage sale or similar activity shall be placed upon public property or right of way. Signs shall not be placed more than twenty-four (24) hours prior to the sale and must be removed upon completion of the sale. The sign shall not exceed four (4) square feet.

Section 5.13 Essential Services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Village. The construction of buildings, but not storage yards, associated with essential services shall be subject to the provisions of Section 3.4, Site Plan Review. Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this Ordinance.

Section 5.14 Self-storage Facilities.

Self-Storage facilities shall be located only in I-1 or I-2 districts and are subject to the following requirements and conditions:

- 5.14.1. No activity other than rental of storage units and the rental of outside storage space for recreational vehicles shall be allowed. No commercial, wholesale, retail, industrial or other business use on, or operated from, the facility shall be allowed.
- 5.14.2. The storage of any toxic, explosive, corrosive, flammable or hazardous materials is prohibited. Fuel tanks on any motor vehicle, boat, lawn mower or similar property will be drained or removed prior to storage. Batteries shall be removed from vehicles before storage.
- 5.14.3. Other than the storage of recreational vehicles, all storage shall be contained within a building. All recreational vehicle storage shall be screened from the view of neighboring properties and public roads in accordance with Section 6.2.
- 5.14.4. Exterior walls of the ends of all storage units shall be of masonry or face-brick construction.
- 5.14.5. All storage units must be accessible by paved circular drives clearly marked to distinguish traffic flow. A minimum thirty-six (36) foot space shall be provided between buildings facing other buildings and a minimum of twenty (20) feet space between the ends of buildings. Site circulation shall be designed to accommodate fire trucks, as well as trucks that will customarily access the site.

Section 5.15 Outdoor Sales and Open Air Businesses.

5.15.1 Outdoor sales for new and used automobiles, boats, mobile homes, farm machinery and other vehicles and manufactured products and similar uses shall be subject to the following provisions:

5.15.2. There shall be no strings of flags, pennants or bare light bulbs permitted.

5.15.3. No vehicles or merchandise for sale shall be displayed within any required front setback and shall adhere to the conditions imposed for the district in which it is located.

5.15.4. There shall be no broadcast of continuous music or announcements over any loudspeaker or public address system.

5.15.5 Open air businesses shall secure a land use permit and be controlled by all the conditions imposed for the District in which it is located. Retail sales, is limited to plants and garden products not grown on site, lawn furniture, playground equipment, and garden supplies. All seasonal sales of this nature not secured in duration with a long term lease requires a Peddlers license issued by the Village of Lexington unless it is incidental to the primary business and operated by the principal of the property.

Section 5.16 General, Building and Landscape Contractor's Offices and Yards.

5.16.1. A contractor's office building shall be of permanent construction. Temporary construction trailers shall not be permitted to be occupied as the office of the contractor. Outdoor storage shall be strictly and clearly accessory to the contractor's principal office use of the property. Only products, materials and equipment owned and operated by the principal use shall be permitted for storage.

5.16.2. Storage shall not be located within the required front yard. Such storage shall not be located in any required parking or loading space.

5.16.3. Storage shall be screened from the view of public street, and adjacent properties zoned either residential, commercial, or office. Screening measures shall meet the requirements of Section 6.2.4.

5.16.4. The location and size of areas for storage, nature of items to be stored therein, and details of the enclosure, including description of materials, height, and typical elevation of the enclosure shall be provided as part of the information submitted under Section 3.4, Site Plan Review.

Section 5.17 Automobile Service Stations.

Automobile service stations and washes shall be subject to the following standards:

5.17.1. Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, wheel stops, greenbelts or traffic islands.

5.17.2. All activities related to vehicle washing, service and repair equipment shall be entirely enclosed within a building.

5.17.3. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with uses located adjacent to and across from the site.

5.17.4. Inoperative or unlicensed vehicles shall not be stored outside for more than seven days. Such storage shall not occur in front of the building front line.

5.17.5. Vehicle sales shall not be permitted on the premises of any automobile service station or wash.

Section 5.18 Outdoor Displays of Products or Materials Intended For Retail Sale or Rental.

5.18.1. General Standards

1. An outdoor display shall be considered as an accessory to the principal business use conducted on the premises.
2. The exterior of the premises shall be kept clean, orderly and maintained.
3. The Village shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of an outdoor display.
4. In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and recommendation where site conditions may create difficulty in adherence to the standards contained herein.

5.18.2. Standards Within CBD Districts.

1. An outdoor display may be located in front of or adjacent to the establishment. An outdoor display that extends beyond the property lines of the applicant shall require the permission of the affected property owners.
2. If an outdoor display is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside.

5.18.3. Standards Within C-2 Districts.

1. An outdoor display may be located within any required yard but shall not be located within any public road right of way.
2. An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this Zoning Ordinance.

5.18.4. Transient and Seasonal Sales.

1. Transient or seasonal sales may be located within any required yard but shall not be located within any public road right of way.
2. Transient or seasonal sales shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this Zoning Ordinance.

Section 5.19 Sidewalk Cafe Service.

A sidewalk cafe service operated by a restaurant or other food establishment which sells food for immediate consumption may be permitted in the Central Business District, C-1 and C-2 Districts, subject to the following conditions:

5.19.1. An application depicting the location and layout of the cafe facility shall be submitted to and approved by the Zoning Administrator. Site plan approval shall be required. A permit shall remain in effect, unless there is a change in ownership or the operation of the cafe fails to meet the standards contained herein.

5.19.2. A sidewalk cafe may be located in front of or adjacent to the establishment. A sidewalk cafe that extends beyond the property lines of the applicant shall require the permission of the affected property owners.

5.19.3. If a sidewalk cafe is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained.

5.19.4. A sidewalk cafe shall be allowed only during normal operating hours of the establishment.

5.19.5. The exterior of the premises shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be inside of the premises. Outdoor grilling must be authorized in the conditional use permit.

5.19.6. The Village shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of a sidewalk cafe operation.

5.19.7. All sidewalk cafes shall comply with applicable regulations of the County Health Department and the State.

Section 5.20 Bed and Breakfast Accommodations.

5.20.1. Each premises must be occupied and operated by its owner.

5.20.2. The proposed use shall not cause a nuisance to adjoining residences due to noise, odor, lighting, or traffic.

5.20.3. No bed and breakfast sleeping room shall be permitted that does not comply with the construction code.

5.20.4. There shall be no separate cooking facilities used for bed and breakfast stay.

5.20.5. The stay of bed and breakfast occupants shall be no more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) calendar year.

5.20.6. The operator of each facility shall keep a list of the names of all persons staying at the bed and breakfast which list shall be available for inspection by the Zoning Administrator.

5.20.7. One (1) bathroom for every three (3) sleeping rooms shall be provided, with a minimum of two (2) bathrooms. All dwellings shall have a minimum of 3,000 square feet of living area.

5.20.8. One (1) parking space shall be provided off-street in the side or rear yard area for each bed and breakfast bedroom.

Section 5.21 Mineral Mining and Extractive Operations.

5.21.1. Intent and Purpose. It is the intent and purpose of this section to promote the underlying spirit and intent of the entire Zoning Ordinance, but at the same time allow for the extraction of minerals in locations where they have been naturally deposited, and to insure that mineral mining activity shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use, and, to insure that mineral mining activities are consistent with the public health, safety and welfare of the Village.

5.21.2. Use Restriction. Mineral mining and extractive operations may be considered as a conditional use in the I-2 District. The extraction, removal, and/or processing of sand, gravel, stone and/or other mineral mining in the Village shall be prohibited unless first authorized by the grant of a conditional approval use application by the Village in accordance with this section, and Section 3.3

5.21.3. Exemption. Usual and customary land balancing by cutting and filling, in preparation for immediately planned and approved development in accordance with this and all other applicable ordinances and law, shall be exempted from the provisions of this section.

5.21.4. Application. An application shall be filed with the Zoning Administrator and shall include the following:

1. Site plan prepared in accordance with Section 3.4;
2. Vertical aerial photograph, enlarged to a scale of one (1) inch equals two hundred (200) feet, from original photograph flown at a negative scale no smaller than one (1) inch equals six hundred sixty (660) feet. The date of the aerial photograph shall be certified, and shall have been flown at such time as the foliage shall be off of on-site trees, provided, if there are changes in the topography from the date of the photograph, an accompanying text shall be provided explaining each change. The vertical photograph shall cover:

- a. All land anticipated to be mined in the application, together with adjoining land owned by the applicant.
 - b. All contiguous land which is or has been used by the owner or leasehold applicant for mineral extraction and/or processing and/or storage, and all contiguous (land) in which the applicant or any affiliate has a current interest.
 - c. All lands within one-half (1/2) mile of the proposed mining area.
 - d. All private and public roads from which access to the property may be immediately gained.
 - e. Boundary of the entire planned mining area by courses and distance.
 - f. Site topography and natural features including location of water courses within the planned mining area.
 - g. Means of vehicular access to the proposed operation.
3. Duration of proposed operation, and location, timing, and any other relevant details with respect to the phasing and progression of work on the site;
 4. Land use study/drawing showing the existing land uses with specification of type of use, e.g., single-family residential, multiple-family residential, retail, office, etc., and density of individual units in areas shown, including:
 - a. Property within a radius of one (1) mile around the site; and
 - b. The property fronting on all vehicular routes within the Village contemplated to be utilized by trucks which will enter and leave the site.
 5. Geological/hydrological/engineering survey prepared by appropriate and qualified experts, indicating:
 - a. All anticipated impact to the qualitative and quantitative aspects of surface water, ground water, and drainage during and subsequent to the operation to the geographical extent reasonably expected to be affected; and
 - b. Opinion whether the exposure of subterranean waters and/or the impoundment of surface waters, where permitted, will establish a suitable water level at the level or levels proposed as part of the operation, and whether the same will not interfere with the existing subterranean water or cause any harm or impairment to the general public;
 6. Description of the vehicles, machinery and equipment proposed for use on the property, specifying with respect to each, the anticipated noise and vibration levels.

5.21.5. Review Procedure.

1. The Zoning Administrator shall forward the original of the application to the Village Clerk for the file, and forward the copies to the members of the Planning Commission, the Village Engineer, the Village Planner, and to the Road Commission.
2. The Village Engineer and the Village Planner shall each file a report with the Zoning Administrator, together with a recommendation on the need for additional experts. The Zoning Administrator shall retain the original of these reports for the file, and forward copies to the Planning Commission.
3. The Zoning Administrator shall request a report from the Road Commission regarding traffic safety relevant to the application and any road improvements deemed appropriate to protect the public health, safety and welfare for areas located outside of the Village.
4. After receiving all reports, including any additional reports of experts recommended by the Village Engineer and/or Planner, if deemed appropriate the Planning Commission shall consider the application in accordance with the procedures set forth in Section 3.3.
5. Reasonable conditions may be required with the approval of the application for the conditional land use, to insure that public services and facilities affected by proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall be reasonable and shall be in compliance with applicable law.

5.21.6. Requirements and Standards. The determination on applications submitted under this section shall be based upon the following requirements and standards, as determined in the discretion of the Planning Commission, and if the application is approved, such standards and requirements shall be maintained as a condition to continued operation and use by the applicant:

1. Demonstration by the applicant that the proposed land use shall not result in a probable impairment to, pollution of, unreasonable impact upon and/or destruction of the following:
 - a. The water table and/or private wells of property owners within the reasonably anticipated area of impact during and subsequent to the operation.
 - b. The course, quantity, and quality of surface water, ground water, and/or the watershed anticipated to be impacted by the operation.

- c. The surrounding property and/or property along haul routes, in terms of noise, dust, air, water, odor, light, and/or vibration, and further, shall not unreasonably impact upon persons perceiving the operation in terms of aesthetics.
2. The proposed land use shall not be incompatible with such surrounding uses, based upon an application of generally accepted planning standards and principles.
3. The proposed land use shall not unreasonably burden the capacity of public services and facilities.
4. The proposed land use shall have immediate and direct access to a paved road having a planned right-of-way not less than one hundred twenty (120) feet and having necessary and appropriate load bearing and traffic volume capacity in relation to the proposed intensity of the use.
5. All activities conducted in connection with the operation shall occur at least one hundred sixty (160) feet from the nearest property line, provided, all processing and stockpiling shall be conducted at least two hundred (200) feet from the nearest property line.
6. The hours of operation shall not reasonably interfere with usual and customary uses of land within the surrounding area anticipated to be impacted. Maximum hours of operation shall be from 7 a.m. to 6 p.m., Monday through Saturday, and closed on Sundays.
7. The maximum duration of the proposed use, if conducted in or immediately adjacent to a residential zoning district, shall be ten (10) years.
8. The site shall be secured with fencing and screened from all adjacent public highways and residentially used parcels.
9. The total area being mined which has not been reclaimed shall at no time exceed forty (40%) percent of the entire parcel.
10. The proposed transportation route or routes within the Village shall be as direct and minimal in detrimental impact as reasonably possible, as determined in the discretion of the Village at the time of application, and thereafter.

5.21.7. Reclamation. Reclamation of the site shall be in accordance with a reclamation plan approved by the Village as part of the application review process. There shall be no final slopes having a grade in excess of a minimum ratio of one (1) foot vertical to five (5) feet horizontal, and, for permanent water areas, for a distance of not less than ten (10) feet nor more than fifty (50) feet, the submerged slopes shall be graded from the water's edge at a grade not in excess of a minimum ratio of one (1) foot vertical to seven (7) feet horizontal; the entire site shall be planted with sufficient vegetation so as to sustain short and long term growth, in order to avoid erosion and washout, and, to the extent necessary to achieve this objective, suitable soils shall be placed on the

property; and, all structures, machinery, equipment and improvements shall be removed from the site. The Village Council shall have the right to impose performance bonds or letters of credit to insure that the reclamation and restoration plans as submitted are implemented.

Section 5.22 Buildings to be Moved.

5.22.1. No permits shall be granted for the move of a building or structure from without or within the limits of the Village to be placed on property within said limits unless the County Building Official has made an inspection of the building to be moved and finds that it is structurally safe and that it will not adversely affect the character of existing buildings in the neighborhood of the new location. The building will fully comply with the County Building Code and other codes regulating public health, safety, and general welfare. A performance bond as established by the Village Council of sufficient amount to insure the cost of completing the building move within a period of not more than ninety (90) days from the date of the permit. In the event that the move cannot be completed within the 90 day time frame, the Zoning Administrator may approve one or more extensions of up to thirty (30) days for completion of the project.

5.22.2. Any building within a district and placed upon a foundation or any building moved into a district shall be subject to all the limitations and requirements herein set forth relating to uses, construction, permits and certificates.

5.22.3 Buildings to be Demolished.

No building shall be demolished within the Village limits without securing a demolition permit from the Zoning Administrator or his/her agent. Waivers from all utility companies, including the Village of Lexington (sewer & water) are required prior the demolition. A performance bond as established by the Village Council of sufficient amount to insure the completion of the demolition and the restoration of the surrounding property within a period of not more than ninety (90) days from the date of the permit is required. In the event the demolition is delayed and can not be completed in the ninety (90) day time frame, the Zoning Administrator and or his/her agent may approve an extension of an additional thirty (30) days.

Section 5.23 Wireless Communication Facilities.

5.23.1. Purpose and Intent.

It is the general purpose and intent of the Village to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the Village to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

1. Facilitate adequate and efficient provision of sites for wireless communication facilities and ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
2. Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
3. Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones.
4. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
5. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way.

5.23.2. Authorization.

1. Subject to the standards and conditions set forth in Subsection 5.23.3, wireless communication facilities shall be permitted uses in the following circumstances, and in the following districts:
 - a. Circumstances creating permitted use treatment. In all Zoning Districts, a proposal to establish a new wireless communication facility shall be deemed a permitted use in the following circumstances:
 - (1) An existing structure which will serve as an Attached Wireless Communication Facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the Zoning Administrator, proposed to be either materially altered or materially changed in appearance.
 - (2) A proposed collocation upon an Attached Wireless Communication Facility which had been pre-approved for such collocation as part of an earlier approval by the Village.
 - (3) An existing structure which will serve as an Attached Wireless Communication Facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Zoning Administrator,

would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

- b. Permitted Use Districts. Wireless communication facilities shall be a permitted use in the I-1 and I-2 Industrial Districts that is located on municipally owned property.
2. If it is demonstrated by an applicant that a wireless communication facility is required to be established outside of a district identified in Subsections 5.23.2.1.a. and b. above, in order to operate, such wireless communication facilities may be permitted elsewhere in the community as a conditional land use, subject to the requirements and standards of Section 3.3 and the following:
 - a. At the time of the submittal, the applicant shall demonstrate that a location within the areas identified in subsections 1.a. and b. above cannot reasonably meet the coverage and/or capacity needs of the applicant.
 - b. Locations outside of the districts identified in subsections 1.a and b. above, shall be permitted on the following sites, subject to application of all other standards contained in this section:
 - (1) Municipally owned site.
 - (2) Public park and other large permanent municipally owned open space areas when compatible.
 - (3) Other locations if none of the above is available.
 - (4) Wireless communication facilities shall be of a design such as (without limitation) a steeple, bell tower, or a form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Village.
 3. All other criteria and standards set forth in Subsection 5.23.3 and 5.23.4 are met.

5.23.3. General Regulations.

1. Standards and Conditions Applicable to All Facilities.

All applications for wireless communication facilities shall be reviewed, constructed and maintained in accordance with the following standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Village in its discretion:

- a. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

- b. Facilities shall be located and designed to be harmonious with the surrounding areas.
- c. Facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
- d. The following additional standards shall be met:
 - (1) The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to collocate on the structure. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
 - (2) The accessory building contemplated to enclose switching equipment shall be limited to the maximum height for accessory structures within the respective district.
 - (3) The setback of the support structure from any residential district shall be no less than the height of the structure. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure.
 - (4) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located.
 - (5) There shall be an unobstructed access drive to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access drive shall be a minimum of fourteen (14) feet in width.
 - (6) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
 - (7) Where an attached wireless communication facility is proposed on the roof of a building, any equipment enclosure shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.

- (8) The Village shall, review and approve the color of the support structure and all accessory buildings, so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
- (9) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
- (10) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

2. Standards and Conditions Applicable to Conditional Land Use Facilities.

Applications for wireless communication facilities which may be approved as conditional land uses shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions in Subsection 5.23.3.1 and in accordance with the following standards:

- a. The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one (1) or more of the following factors:
 - (1) Proximity to a major thoroughfare.
 - (2) Areas of population concentration.
 - (3) Concentration of commercial, industrial, and/or other business centers.
 - (4) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
 - (5) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - (6) Other specifically identified reason creating facility need.
- b. The proposal shall be reviewed in conformity with the collocation requirements of this section.

5.23.4. Application Requirements.

1. A site plan prepared in accordance with Section 3.4.
2. The site plan shall also include a detailed landscaping plan illustrating screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.
3. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
4. The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in Section 5.23.6 below. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the Village Attorney and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property to timely remove the facility as required under this section of the ordinance, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the Village in securing removal.
5. The application shall include a map showing existing and known proposed wireless communication facilities within the Village, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Village in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any proprietary information may be submitted with a request for confidentiality in connection with the development of governmental policy, in accordance with MCL 15.243(1)(g). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the Village.
6. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

5.23.5. Collocation.

1. Statement of Policy:

It is the policy of the Village to minimize the overall number of newly established locations for wireless communication facilities and encourage the use of existing structures.

2. Feasibility of Collocation:

Collocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:

- a. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
- b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- c. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Village, taking into consideration the standards set forth in this section.

3. Requirements for Collocation:

- a. Approval for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
- b. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- c. If a party who owns or otherwise controls a facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

5.23.6. Removal.

1. The Village reserves the right to request evidence of ongoing operation at any time after the construction of an approved tower.
2. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one (1) or more of the following events:

- a. When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - b. Six (6) months after new technology is available at reasonable cost as determined by the municipal legislative body, which permits the operation of the communication system without the requirement of the support structure.
3. The situations in which removal of a facility is required, as set forth in subsection 1 above, may be applied and limited to portions of a facility.
4. Upon the occurrence of one or more of the events requiring removal, specified in subsection 2 above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.
5. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Village may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the facility.

ARTICLE 6

ENVIRONMENTAL PROTECTION AND DESIGN PROVISIONS

Section 6.1 Purpose.

Environmental standards are established in order to preserve the short and long-term environmental health, safety, and quality of the Village. No parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use, otherwise allowed, shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

Section 6.2 Landscaping, Greenbelts and Buffers, and Screening.

6.2.1. Intent. The intent of this section is to:

1. Protect and preserve the appearance, character, and value of the community.
2. Minimize noise, air, and visual pollution.
3. Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other vehicular use areas.
4. Require buffering of residential areas from more intense land uses and public road rights-of-way.
5. Prevent soil erosion and soil depletion and promote sub-surface water retention.
6. Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce a more aesthetic and cohesive design.
7. Encourage the integration of existing woodlands in landscape plans.

6.2.2. Application of Requirements. These requirements shall apply to all uses for which site plan review is required under Section 3.4 of this Ordinance and subdivision plat review as required under the Subdivision Control Ordinance.

No site plan, site condominium plan, or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

6.2.3. Landscape Plan Requirements. A separate detailed landscape plan shall be required to be submitted to the Village as part of the site plan review or tentative preliminary plat review. The landscape plan shall demonstrate that all requirements of this Section are met and shall include, but not necessarily be limited to, the following items:

1. Location, spacing, size, root type and descriptions for each plant type.
2. Typical straight cross section including slope, height, and width of berms.
3. Typical construction details to resolve specific site conditions, such as landscape walls and tree wells used to preserve existing trees or maintain natural grades.
4. Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
5. Identification of existing trees and vegetative cover to be preserved.
6. Identification of grass and other ground cover and method of planting.
7. Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.

6.2.4. Screening Between Land Uses.

1. Upon any improvement for which a site plan is required, a landscape buffer shall be constructed to create a visual screen at least six (6) feet in height along all adjoining boundaries between either a conflicting non-residential or conflicting residential land use and residentially zoned or used property. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80%) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years.
2. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or fence shall be required by the Village. Such wall or fence shall be a minimum of six (6) feet but no greater than eight (8) feet in height as measured on the side of the proposed wall having the higher grade.

A required wall shall be located on the lot line except where underground utilities interfere and except in instances where this Zoning Ordinance requires conformity with front yard setback requirements. Upon review of the landscape plan, the Village

may approve an alternate location of a wall. The Village and the Building Official shall approve the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, pre-cast brick face panels having simulated face brick, stone or wood.

6.2.5. Parking Lot Landscaping.

1. *Required Landscaping Within Parking Lots.* Separate landscape areas shall be provided within parking lots in accordance with the following requirements:
 - a. There shall be a minimum of one (1) tree for every eight (8) parking spaces within a landscape island, provided that a landscape island is required for each sixteen (16) continuous spaces. Where landscape islands are not required, the same ratio of trees shall be placed on the site.
 - b. Landscaping shall be arranged in curbed islands with intermittent water drainage within the parking lot which shall not be less than fifty (50) square feet in area.
 - c. A minimum distance of three (3) feet from the backside of the curb and the proposed landscape plantings shall be provided. Where vehicles overhang a landscape island or strip, a minimum distance of five (5) feet from the backside of the curb and the proposed landscape plantings shall be provided.
 - d. The Village, at its discretion, may approve alternative landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing.
2. *Required Landscaping at the Perimeter of Parking Lots.* Separate landscape areas shall be provided at the perimeter of parking lots in accordance with the following requirements:
 - a. Parking lots which are considered to be a conflicting land use as defined by this Section shall meet the screening requirements set forth in Section 6.2.4.
 - b. Parking lots shall be screened from view with a solid wall at least three (3) feet in height along the perimeter of those sides which are visible from a public road. The Village, at its discretion, may approve alternative landscape plantings in lieu of a wall.

6.2.6. Greenbelts. A greenbelt shall be provided which is an area established at a depth of the required front yard setback within that zoning district and landscaped in accordance with the following requirements:

1. The greenbelt shall be landscaped with a minimum of one (1) tree for every thirty (30) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Non-ornamental deciduous trees within a greenbelt shall be a minimum caliper of two and one-half (2 1/2) inches or greater. Evergreen trees within a greenbelt shall be a minimum height of six (6) feet.
2. If ornamental deciduous trees are substituted for either non-ornamental deciduous trees or evergreen trees, they shall be provided at a minimum of one (1) tree for every twenty (20) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Ornamental deciduous trees within a greenbelt shall be a minimum caliper of two (2) inches or greater.
3. In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and other natural landscape materials.
4. Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

6.2.7. **Site Landscaping.** In addition to any landscape greenbelt and/or parking lot landscaping required by this section, ten (10%) percent of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas and gardens and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air-conditioning units, and loading areas.

6.2.8. **Subdivision and Site Condominium Landscaping.** Landscaping for single-family residential subdivisions and site condominiums shall be provided in accordance with the following requirements:

1. *Street Trees.* The frontage of all internal public or private streets shall be landscaped with a minimum of one (1) tree for every fifty (50) lineal feet, or fraction thereof. Such street trees shall meet the minimum size and spacing requirements set forth in Section 6.2.11.
2. *Screening Between Land Uses.* Where a subdivision or site condominium contain uses which are defined as conflicting land uses by this Section, the screening requirements set forth in Section 6.2.4. shall be met.
3. *Screening From Public Roads.* Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in Section 6.2.4. shall be met.
4. *Other Site Improvements.* A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the

development, storm water retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.

6.2.9. Screening of Trash Containers.

1. Outside trash disposal containers shall be screened on all sides with an opaque fence or wall, and gate at least as high as the container, but no less than six (6) feet in height, and shall be constructed of material which is compatible with the architectural materials used in the site development.
2. Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the building they serve.
3. Containers and enclosures shall be located away from public view insofar as possible.
4. Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
5. Concrete pads of appropriate size and construction shall be provided for containers or groups of containers having a capacity of six (6) 30-gallon cans or more. Aprons shall be provided for loading of bins with a capacity of 1.5 cubic yards or more.
6. For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.
7. Screening and gates shall be of a durable construction.

6.2.10. Landscape Elements. The following minimum standards shall apply:

1. *Quality.* Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to Sanilac County, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
2. *Composition.* A mixture of plant material, such as evergreen deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
3. *Berms.* Berms shall be constructed with slopes not to exceed a 1:3 gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.

4. *Existing Trees.* The preservation and incorporation of existing trees is encouraged. Where existing trees are used to satisfy the requirements of this Section, the following requirements shall apply:
 - a. Paving, or other site improvements, shall not encroach upon the drip line of the existing tree(s) to be preserved.
 - b. If existing plant material is labeled “To Remain” on site plans by the applicant or required by the Village, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Village.
 - c. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Village, the Contractor shall replace them with trees which meet Ordinance requirements.

5. *Installation, Maintenance, and Completion.*
 - a. All landscaping required by this Ordinance shall be planted before obtaining a Certificate of Occupancy or the appropriate financial guarantee, as set forth in Section 3.7, shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.
 - b. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.
 - c. The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a strong and healthy condition, free from refuse, debris and insects. All materials used to satisfy the requirements of this Ordinance which become unhealthy or dead shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

6.2.11. *Minimum Size and Spacing Requirements.* Where landscaping is required the following schedule sets forth minimum size and spacing requirements; for representative landscape materials:

SECTION 6.2.11 SIZE AND SPACING REQUIREMENTS

	Minimum Size Allowable				Recommended On-Center Spacing			
	Height/Caliper				(in feet)			
	6'	3'-4'	2"	2.5"	30	25	15	10
TREES								
Evergreen Trees:								
Fir	◆						◆	
Spruce	◆						◆	
Pine	◆						◆	
Hemlock	◆						◆	
Douglas Fir	◆						◆	
Narrow Evergreen Trees:								
Red Cedar		◆						◆
Arborvitae		◆						◆
Juniper (selected varieties)		◆						◆
Large Deciduous Trees:								
Oak				◆	◆			
Maple				◆	◆			
Beech				◆	◆			
Linden				◆		◆		
Ash				◆	◆			
Gingko (male only)				◆	◆			
Honey locust (seedless, thorn less)				◆	◆			
Birch				◆		◆		
Sycamore				◆	◆			
Small Deciduous Trees (ornamental)								
Flowering Dogwood (disease resistant)			◆				◆	
Flowering Cherry, Plum, Pear			◆			◆		
Hawthorn			◆				◆	
Redbud			◆			◆		
Magnolia			◆				◆	
Flowering Crabapple			◆				◆	
Mountain Ash			◆				◆	
Hornbeam			◆			◆		

SECTION 6.2.11 SIZE AND SPACING REQUIREMENTS (con't.)

	Minimum Size Allowable				Recommended On-Center Spacing				
	Height/Spread				(in feet)				
	6'	3'-4'	24"-36"	18"-24"	10	6	5	4	3
SHRUBS									
Large Evergreen Shrubs:									
Pyramidal Yew		◆			◆				
Hicks Yew				◆				◆	
Spreading Yew			◆				◆		
Alberta Spruce		◆						◆	
Chinese Juniper Varieties			◆			◆			
Sabina Juniper				◆			◆		
Mugho Pine				◆		◆			
Small Evergreen Shrubs:									
Brown's Ward's Seabion Yews				◆					◆
Horizontalis Juniper Varieties				◆		◆			
Boxwood				◆				◆	*
Euonymus Spreading varieties				◆			◆		
Large Deciduous Shrubs:									
Honeysuckle			◆		◆				
Lilac			◆		◆				
Privet			◆			◆			*
Sumac			◆			◆			
Buckthorn/Tall hedge		◆					◆		*
Pyracantha				◆			◆		
Weigela		◆						◆	
Flowering Quince			◆			◆			
Cotoneaster (Peking and Spreading)			◆				◆		
Dogwood (Red Osier & Grey)			◆			◆			
Euonymus (Burning Bush)			◆			◆	*		
Viburnum varieties			◆			◆			
Small Deciduous Shrubs:									
Barberry				◆			◆		
Dwarf Winged Euonymus				◆			◆		*
Spirea				◆				◆	
Fragrant Sumac				◆					
Japanese Quince				◆					◆
Cotoneaster (Rockspray, Cranberry)				◆			◆		◆
Potentilla				◆					◆

* For hedge plantings

Section 6.3 Fences, Walls and Screens.

Any person desiring to build or cause to be built a fence upon property within the Village of Lexington shall first apply to the Zoning Administrator for a permit. Application for such permit shall contain any and all information, including site plan and opacity, which are required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this Ordinance. The fee for such permit shall be set by Council resolution.

Except as otherwise required by this Ordinance, the following regulations shall apply:

6.3.1. In a residential district, fences shall not exceed six (6) feet in height. However, fences are not permitted in front yards, and fences in side yards shall not exceed (4) feet in height and fifty (50%) percent opacity. Opacity is the degree to which a fence is impervious to rays of light. This condition shall be measured by the observation of any two (2) square yard area of fence between one (1) foot above the ground level and the top of the fence. The observation shall be from a direction perpendicular to the place of the fence.

6.3.2. In a commercial, industrial, or office district, no fence, wall, or other screening structure shall exceed eight (8) feet in height. No fence is allowed in the front yard area or in the area fronting the primary building along the street.

6.3.3. The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety.

6.3.4. No fence shall be constructed or maintained which is charged or connected with an electrical current.

6.3.5. Retaining walls shall be designed and constructed in accordance with applicable building code requirements.

6.3.6. Temporary construction fences and fences required for protection around excavations shall comply with Article 18 of the Basic Building Code. Such fences shall not remain in place for a period greater than a year.

6.3.7. Clear Vision Requirements.

1. No fence, wall, screen, hedge, sign, or other structure or planting shall obstruct visibility between the heights of thirty (30) inches and ten (10) feet above the sidewalk grade within twenty-five (25) feet of the intersection of two or more streets.

2. On any interior lot, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of a driveway, either on a parcel or on an adjacent parcel, between the height of thirty (30) inches and ten (10) feet measured a distance of twenty (20) feet back from the point where the driveway intersects the street 's edge.

Section 6.4 Airborne Emissions.

6.4.1. Smoke and Air Contaminants. It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of air quality standards adopted by Federal and/or state regulatory authorities.

6.4.2. Odors. Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. The provisions of this Section are not intended to apply to farming activities.

6.4.3. Gases. The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

Section 6.5 Noise and Vibration.

6.5.1. Noise which is objectionable as determined by the Village due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled, subject to the noise control provisions in Chapter 34 Environment of the Village Code.

6.5.2. In addition, objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, even if falling below the decibel readings in Chapter 34, shall be so controlled so as not to become a nuisance to adjacent uses. Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

6.5.3. No use shall generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply:

Particle Velocity, Inches-Per Second

<u>Frequency in Cycles per Second</u>	<u>Displacement in Inches</u>
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

6.5.4. Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.

Section 6.6 Use, Storage and Handling of Hazardous Substance; Storage and Disposal of Solid, Liquid, and Sanitary Wastes.

6.6.1. It shall be unlawful for any person, firm, corporation or other legal entity to pollute, impair or destroy the air, water, soils or other natural resources within the Village through the use, storage and handling of hazardous substances and/or wastes or the storage and disposal of solid, liquid, gaseous and/or sanitary wastes.

6.6.2. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall obtain the necessary permits or approval from the appropriate Federal, State or local authority having jurisdiction.

6.6.3. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall complete and file a Hazardous Chemicals Survey on a form supplied by the Village in conjunction with the following:

1. Upon submission of a site plan.
2. Upon any change of use or occupancy of a structure or premise.
3. Upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.

6.6.4. All business and facilities which use, store, or generate hazardous substances in quantities greater than 100 kilograms per month (equal to or greater than 25 gallons or 220 pounds) shall comply with the following standards:

1. Above-Ground Storage and Use Areas for Hazardous Substances.
 - a. Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficiently impervious to contain the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - b. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
 - c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains.

- d. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff.
2. Underground Storage Tanks - Existing and new underground storage tanks shall be registered, installed, operated, maintained, and removed in accordance with requirements of the appropriate Federal, State or local authority having jurisdiction.
3. Loading and Unloading Areas.

Areas used for the loading and unloading of hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials which may be spilled or leaked.

6.6.5. All site plans for business or facilities which use, store or generate hazardous substances shall be reviewed by the Fire Department, Village Engineer and any other appropriate experts determined necessary by the Planning Commission prior to approval by the Planning Commission.

Section 6.7 Electrical Disturbance, Electromagnetic, or Radio Frequency Interference.

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

Section 6.8 Glare and Exterior Lighting.

6.8.1. Light and Glare from Indirect Sources.

1. Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.
2. The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.
3. Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

6.8.2. Exterior Lighting from Direct Sources.

1. Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.
2. Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which created a nuisance or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public street lighting.
3. The following additional standards shall apply:
 - a. Only white, non-glare lighting such as metal halide, color-corrected high pressure sodium, or other types of lighting which achieve the same effect shall be permitted. Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.
 - b. The light intensity provided at ground level shall be a minimum of 0.3 foot-candle anywhere in the area to be illuminated. Light intensity shall average a minimum of 0.5 foot-candle over the entire area, measured five (5) feet above the surface.
 - c. Except as noted below, lighting fixtures shall not exceed a height of twenty-five (25) feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of twenty (20) feet.
 - d. All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, and traffic safety. Building or roof mounted lighting intended to attract attention to the building and/or use and not strictly designed for security purpose is not permitted. Temporary holiday lighting and decoration are exempt from the aforementioned provision.

Section 6.9 Fire Hazard.

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

Section 6.10 Safety.

Existing hazards or potential hazards and nuisances, such as construction sites, junk yards, land fills, sanitary land fills, demolition sites, unused basements, abandoned wells or cisterns and sand, gravel, and stone pits or piles are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety and welfare.

Section 6.11 Storm Water Management.

6.11.1. Storm water Management. All developments and earth changes subject to review under the requirements of this Ordinance shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site.

Storm water Management shall comply with the following standards:

1. The design of storm sewers, detention facilities, and other storm water management facilities shall comply with the standards for green site technology.
2. Storm water management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to storm water runoff and soil erosion from the proposed development.
3. The use of swales and vegetated buffer strips is encouraged in cases where the Planning Commission deems to be safe and otherwise appropriate as a method of storm water conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.
4. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downstream property owners.
5. Discharge of runoff from any site which may contain oil, grease, toxic chemicals, or other polluting materials is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the Michigan Department of Environmental Quality. Based upon professionally accepted principles, such a proposal shall be submitted and reviewed by the Village Engineer, with consultation of appropriate experts.
6. Drainage systems shall be designed to protect public health and safety and to be visually attractive, taking into consideration viable alternatives.

6.11.2. On-Site Storm water Detention. For the purpose of controlling drainage to off-site properties and drainage ways, all properties which are developed under this zoning ordinance, whether new or improved shall provide for on-site detention storage of storm water in accordance with the current Michigan Department of Environmental Quality standards.

Section 6.12 Regulation of Floodplain Areas.

6.12.1. Purpose.

1. The floodplains of the Village are subject to periodic inundation of floodwaters which result in loss of property, health, and safety hazards, disruption of commerce and governmental service, and impairment of tax base.

2. It is the purpose of this section to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register, Vol. 41, No. 207, October 26, 1976, and re-designated at 44FR 31177, May 31, 1979.
3. The provisions of this section are intended to:
 - a. help protect human life, prevent or minimize material losses, and reduce the cost to the public for rescue and relief efforts;
 - b. restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause excessive increases in flood heights or velocities;
 - c. require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;
 - d. protect individuals from buying lands which are designated to be unsuited for intended purposes because of flooding;
 - e. permit reasonable economic use of property located within a designated floodplain area.

6.12.2. Delineation of Floodplain Areas.

1. Designated floodplain areas shall overlay existing zoning districts delineated on the Zoning District Map of the Village. The boundaries of the floodplain areas are identified in the report entitled, the Flood Insurance Study, Village of Lexington, prepared by FEMA with an effective date of June 15, 1982, as may be revised from time to time. The study and accompanying maps are adopted by reference, appended, and declared to be part of this Ordinance.
2. The standard applied to establishing the floodplain area is the base floodplain delineated by the base flood. In areas associated with ravine flooding, a floodway is designated within the floodplain area.
3. Where there are disputes as to the location of a floodplain area boundary, the Zoning Board of Appeals shall resolve the dispute in accordance with Article 12.0.

6.12.3. Application of Regulations.

1. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within designated floodplain areas. Conflicts between the requirements of this section and other requirements of this

Ordinance or any other Ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section. In such cases, the more stringent requirement shall be applied.

2. Upon application for land use permits, the Zoning Administrator shall determine whether said use is located within a designated floodplain area utilizing the documents cited in Section 6.12.2. The issuance of a land use permit within the floodplain area shall comply with the following standards:

- a. The requirements of this section shall be met;
- b. The requirement of the underlying districts and all other applicable provisions of this Ordinance shall be met; and
- c. All necessary development permits shall have been issued by appropriate Local, State, and Federal authorities, including a floodplain permit, approval, or letter of authority from the Michigan Department of Natural Resources under authority of Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

3. Floodplain Management Administrative Duties.

- a. With regard to the National Flood Insurance Program, and the regulation of development within the flood hazard area zone as prescribed in Section 6.12.4, the duties of the Zoning Administrator shall include, but are not limited to;
 - Notification to adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;
 - Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood proofed; and
 - Recording of all certificates of flood proofing, and written notification to all applicants to whom variances are granted in flood hazard area zone indicating the terms of the variance. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.

- b. All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.
- c. It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering the Ordinance in the absence of data from FEMA.

6.12.4. Floodplain Standard and Requirements.

1. The following general standards and requirements shall be applied to all uses proposed to be located within the floodplain area:
 - a. All new construction and substantial improvements within a floodplain, including the placement of prefabricated buildings and mobile homes, shall;
 - Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - Be constructed with materials and utility equipment resistant to flood damage;
 - Be constructed by methods and practices that minimize flood damage.
 - b. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
 - c. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters.
 - d. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
 - e. Adequate drainage shall be provided to reduce exposure to flood hazards.
 - f. The Village Engineer or his representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his determination to the Zoning Administrator.
 - g. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Article.
 - h. The flood carrying capacity of any altered or relocated watercourse not subject to state and Federal regulations designed to insure flood carrying capacity shall be maintained.

than ten (10) feet apart; and reinforcement shall be provided for piers more than six (6) feet above ground level.

- In mobile home parks and mobile home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities, and pads equals or exceeds fifty (50%) percent of the value of the streets, utilities, and pads before the repair, the standards in the subparagraphs above shall be complied with.
4. The following standards shall be applied to all uses proposed to be located within the floodway portion of the floodplain area.
- a. Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Department of Natural Resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968.
 - b. The placement of mobile homes shall be prohibited.
 - c. The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.

6.12.5. Warning and Disclaimer of Liability.

1. The degree of flood protection required by provisions of this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions.
2. These provisions do not imply that areas outside the floodplain or land uses permitted within such districts will be free from flooding or flood damages nor shall the Village or any officer or employee thereof be liable for any flood damages that result from reliance on the provisions of this section or any administrative decision lawfully made there under.

Section 6.13 Building Grades.

6.13.1. Any building requiring yard space shall be located at such an elevation that a finished grade shall be maintained to cause the flow of surface water to run away from the walls of the building. All grades shall be established and maintained so that surface water run-off damage does not occur to adjoining properties prior to, during, and after construction.

6.13.2. When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the Building Official shall use the existing established finished

grade or the minimum established grade, in determining the proper grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing codes and to preclude normal run-off of surface water to flow onto the adjacent property.

6.13.3. Final grades shall be approved by the Building Official who may require a grading plan which has been duly completed and certified by a registered engineer or land surveyor.

ARTICLE 7

PUD - PLANNED UNIT DEVELOPMENT DISTRICT

Section 7.1 Purpose and Intent.

Planned Unit Development (PUD) district regulations are intended to provide for various types of land uses planned in a manner which shall; encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the Village; and bring about a greater compatibility of design and use. The provisions of this Article provide enabling authority and standards for the submission, review, and approval of applications for planned unit developments.

Section 7.2 PUD Regulations.

7.2.1. A planned unit development (PUD) may be applied for in any zoning district. The grant of a planned unit development application shall require a rezoning by way of amendment of this Ordinance upon the recommendation of the Planning Commission and approval of the Village Council.

7.2.2. Any land use authorized in this Ordinance may be included in a planned unit development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

7.2.3. The applicant for a planned unit development must demonstrate all of the following criteria as a condition to being entitled to planned unit development treatment:

1. Grant of the planned unit development will result in one of the following:
 - a. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
 - b. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
 - c. A non-conforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.
2. The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities.

3. The proposed development shall be consistent with the public health, safety and welfare of the Village.
4. The proposed development shall be consistent with adjacent circulation patterns or there should be stub streets to accommodate the traditional street patterns that could be developed on adjacent parcels.
5. The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land.
6. The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
7. The proposed development shall be under single ownership and/or control such that there is a single person having responsibility for completing the project in conformity with this Ordinance.
8. The proposed development shall be consistent with the Goals and Policies of the General Development Plan.

Section 7.3 Procedure for Review.

7.3.1. Pre-application Conference. Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants the Administrator deems appropriate. The applicant shall present at such conference, or conferences, at least a sketch plan of the proposed planned unit development, as well as the following information: Total number of acres in the project; a statement of the number of residential units, if any; the number and type of non-residential uses, the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; the number of acres to be preserved as open or recreational space; and, all known natural resources and natural features to be preserved.

7.3.2. Preliminary Plan. Following the Pre-application Conference, the applicant shall submit a preliminary site plan of the proposed planned unit development. The preliminary site plan shall be prepared in accordance with the standard set forth in Section 3.4.2. A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in Section 7.1 have been met.

1. *Planning Commission Action.* The Preliminary Plan shall be noticed for public hearing as a zoning amendment before the Planning Commission. Following the hearing, the Planning Commission shall review the preliminary site plan and shall take one of the following actions:
 - a. Approval. Upon finding that the Preliminary Plan meets the criteria and standards set forth in Sections 7.1 and 7.2, the Planning Commission shall grant preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the Preliminary Plan and shall confer upon the applicant the right to proceed to preparation of the Final Plan.

Approval of the Preliminary Plan by the Planning Commission shall not constitute rezoning of the property to PUD nor bind the Village Council to approval of the Final Plan.

- b. **Tabling.** Upon finding that the Preliminary Plan does not meet the criteria and standards set forth in Sections 7.1 and 7.2, but could meet such criteria if revised, the Planning Commission may table action until a revised Preliminary Plan is resubmitted.
- c. **Denial.** Upon finding that the Preliminary Plan does not meet the criteria and standards set forth in Sections 7.1 and 7.2, the Planning Commission shall deny preliminary approval.

7.3.3. **Final Plan.** Within six (6) months following receipt of the Planning Commission comments on the preliminary plan, the applicant shall submit a final plan and supporting materials conforming with this Section. If a final plan is not submitted by the applicant for final approval within six (6) months following receipt of Planning Commission comments, the preliminary plan approval becomes null and void.

- 1. *Information Required.* A final site plan and application for a PUD shall contain the following information:
 - a. A site plan meeting all requirements of Section 3.4.3, Final Site Plan.
 - b. A separately delineated specification of all deviations from this ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article.
 - c. A specific schedule of the intended development and construction details, including phasing or timing.
 - d. A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
 - e. A specification of the exterior building materials with respect to the structures proposed in the project.
 - f. Signatures of all parties having an interest in the property.
- 2. *Planning Commission and Action.* The final plan shall constitute an application to amend this Ordinance, and shall be noticed for public hearing as a zoning amendment before the Planning Commission, and otherwise acted upon by the Planning Commission, and the Village Council, as provided by law.
 - a. **Approval.** Upon finding that the Final Plan meets the criteria and standards set forth in Section 7.1 and 7.2, the Planning Commission shall recommend approval to the Village Council.

- b. **Tabling.** Upon finding that the Final Plan does not meet the criteria and standards set forth in Section 7.1 and 7.2, but could meet such criteria if revised, the Planning Commission may take action until a revised Final Plan is resubmitted.
- c. **Denial.** Upon finding that the final plan does not meet the criteria and standards set forth in Section 7.1 and 7.2, the Planning Commission shall recommend denial to the Village Council.

The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the Village Council must exercise discretion.

- 3. **Village Council Action.** Upon receiving a recommendation from the Planning Commission, the Village Council shall review the Final Plan. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in Sections 7.1 and 7.2, the Village Council shall approve, table or deny the Final Plan.

Prior to approval of a Final Plan, the Village Council shall require all standards and conditions of approval to be incorporated in a Development Agreement. The Agreement shall be prepared by the Village Attorney, approved by the Village Council, and signed by both the Village and the Applicant.

Section 7.4 Project Design Standards.

7.4.1. Residential Design Standards.

- 1. Residential density shall not be greater than the maximum density permitted in the zoning district in which the property is situated immediately prior to classification under this Article.

Additional density for residential uses may be allowed in the discretion of the Village Council upon the recommendation of the Planning Commission and based upon a demonstration by the applicant of consistency with the General Development Plan and of planning and design excellence resulting in a material benefit to the Village, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations, including, without limitation, innovative design producing significant energy efficiency, pedestrian or vehicular safety, long term aesthetic beauty, and protection and preservation of natural resources and features.

- 2. Residential street layout patterns shall be consistent with the traditional street patterns as established in the Village in order to meet the intent of this Ordinance as outlined in Section 1.2 of this Ordinance.

7.4.2. Non-Residential Design Standards.

1. Non-residential uses may be permitted in combination with other non-residential uses or as part of a common development with residential uses.
2. The non-residential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles.
3. Nonresidential properties in excess of 200 feet in width along an existing right-of-way shall provide at least on side street right-of-way to permit access to the property to the rear of the nonresidential parcel.

7.4.3. General Design Standards.

1. All regulations applicable to setbacks, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the development based upon zoning districts in which the use is listed as a Principal Permitted Use. In all cases, the strictest provisions shall apply.

Notwithstanding the immediately preceding paragraph, deviations with respect to such regulation may be granted as part of the overall approval of the planned unit development, provided there are features or elements demonstrated by the applicant and deemed adequate by the Village Council upon the recommendation of the Planning Commission designed into the project plan for the purpose of achieving the objectives of this Article.

2. To the maximum extent feasible, the development shall be designed so as to preserve the natural resources and natural features. The benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of the natural resources or features and the following criteria:
 - a. The availability of feasible and prudent alternative methods of accomplishing any development.
 - b. The extent and permanence of the beneficial or detrimental effects of the proposed activity.
 - c. The size, quality and rarity of the natural resources or natural features which would be impaired or destroyed.
3. There shall be a perimeter setback and berming, as found to be necessary by the Village, for the purpose of buffering the development in relation to surrounding properties. If the planned unit development project includes non-residential uses adjacent to a district authorizing residential uses, and/or if the project is larger than one acre in area, such perimeter setback shall be established with a dimension from the property line of up to one hundred (100) feet in the discretion of the Village Council, taking into consideration the use or uses in and adjacent to the development.

The setback distance need not be uniform at all points on the perimeter of the development.

4. Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
5. There shall be underground installation of utilities, including electricity and telephone, as found necessary by the Village.
6. Pedestrian walkways shall be separated from vehicular circulation, as found necessary by the Village.
7. Signage, lighting, landscaping, building materials for the exterior of all structure, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
8. Where non-residential uses adjoin off-site residentially zoned property, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The Village, in its discretion, shall review and approve the design and location of such mechanisms.
9. The Village Council upon the recommendation of the Planning Commission shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, General Development Plan, and other Village standards or policies as a guide.

Section 7.5 Conditions.

7.5.1. Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

7.5.2. Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project and those immediately adjacent, and the community as a whole; reasonably related to the purposes affected by the planned unit development; and, necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development.

Section 7.6 Phasing and Commencement of Construction.

7.6.1. Phasing. Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary

components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Village Council after recommendation from the Planning Commission.

7.6.2. Commencement and Completion of Construction. To ensure completion of required improvements, the Village is authorized to impose performance guarantees in accordance with Section 3.7. Construction shall be commenced within one (1) year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by Section 7.2.3. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Village Council upon good cause shown if such request is made to the Village Council prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the Village Council, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

Section 7.7 Effect of Approval.

When approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the Sanilac County Register of Deeds, evidence of which shall be supplied to the Zoning Administrator.

ARTICLE 8

SIGNS

Council approved 4-25-05 Effective 5-1-05

Section 8.1 Intent and Purpose.

The intent of this Ordinance is to regulate the location, size, construction, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on the public health, safety and welfare. While this Ordinance recognizes that signs and outdoor advertising are necessary to promote commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of the business and residential areas of the Village, conflicts between different types of land use, and reduction in traffic safety to pedestrian's and motorists.

To achieve its intended purpose, this Ordinance has the following objectives:

- 8.1.1. To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses;
- 8.1.2. To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products;
- 8.1.3. To keep signs within a reasonable scale with respect to the buildings they identify;
- 8.1.4. To reduce visual distraction and obstructions to motorists traveling along, entering or leaving streets;
- 8.1.5. To promote a quality manner of display which enhances the character of the Village;
- 8.1.6. To prevent the proliferation of temporary signs which might promote visual blight.
- 8.1.7. To eliminate the potential for any adverse affects on the neighboring properties.

Section 8.2 General Conditions.

- 8.2.1. Location. All signs must advertise a business or service on the premises upon which the sign is located and to which the sign is an accessory, unless otherwise specified herein.
- 8.2.2. Illumination.
 1. No sign shall be illuminated by other than electrical means.
 2. The light from illuminated signs shall be directed and shielded in a manner that will not interfere with vehicular traffic or the enjoyment and use of adjacent properties.

3. No sign may be erected which flashes, rotates, has moving parts or messages generated by discrete lighting elements, except as permitted in 8.2.5(2).
4. Internal illumination shall be permitted under the following circumstances:
 - a. Individual back-lit letters which are silhouetted against softly illuminated walls.
 - b. Individual letters with translucent faces, containing soft lighting elements inside each letter.
 - c. Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes.
5. Only indirectly illuminated signs shall be allowed in any residential district.
6. Internally-illuminated plastic signs with dark-colored detachable letters shall be strictly prohibited in all districts.
7. Gas-filled light types (fluorescent) shall be allowed for indirect illumination and when placed in such a manner that the tubes are not exposed to view from any point along the roadway or sidewalk.
8. Rear-illuminated (backlit) awnings are prohibited.

8.2.3. Safety.

1. All signs shall be erected and maintained in compliance with all applicable building codes, and other applicable ordinances governing construction within the Village. In the event of conflict between this Ordinance and other laws, the most restrictive shall govern.
2. All signs shall be so placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or, pedestrian movement on any public sidewalk.
3. No sign shall be erected, relocated or maintained so as to obstruct fire fighting or prevent free access to any door, window or fire escape.

8.2.4. Landscape Quality and Preservation. In the application of this Ordinance, it is the intent to protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:

1. Do not interfere with scenic views.
2. Do not create a nuisance to persons using the public right-of-way.
3. Do not constitute a nuisance to occupancy of adjacent and continuous property by their brightness, size, height, or movement.

4. Are not detrimental to land or property values.
5. Contribute to the special character of particular areas or districts in the Village.

8.2.5. Signs Prohibited in All Districts.

1. Roof signs.
2. Signs containing flashing, intermittent or moving lights, moving or revolving parts, or reflecting parts which may distract drivers. This provision is not intended to exclude those signs which give the time, temperature, public messages, or business bulletins, provided no other animated messages are displayed.
3. Signs affixed to trees, rocks, shrubs or similar natural features, except, signs denoting a site of historic significance.
4. Signs which imitate traffic signals, traffic direction signs, or similar traffic control devices, and signs which make use of words such as “Stop”, “Look”, “Danger”, or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.
5. Temporary signs mounted upon trucks, vans, or other wheeled devices, except for political signs. Signs permanently painted on, or, otherwise permanently displayed upon a vehicle, licensed and operating on the public streets and highways, identifying the owner's occupation or livelihood, shall be permitted.
6. Signs other than those erected by a public agency which are located within or overhang the public right-of-way or on public property, unless otherwise specified herein.
7. Any sign or sign structure which constitutes a hazard to public health and safety due to inadequate maintenance.
8. Any sign unlawfully installed, erected or maintained.
9. Any sign displayed advertising a business, service, or product with out a permit unless otherwise specified herein.
10. Any sign advertising or promoting activity not located on that property unless otherwise specified herein.

8.2.6. Signs Permitted in All Districts.

1. Nameplates not exceeding two (2) square feet in size.
2. Political signs for public office or issues to be determined by election may be erected forty-five (45) days prior to an election. Such signs shall be erected on private property only and no less than one hundred (100) feet from any entrance to a building in which a polling place is located. No signs shall be placed in public right-of ways.

All such signs shall be removed within five (5) days following Election Day. Size of signs are limited as follows:

- a. Four (4) square feet in R-1A, R-1B, R-2, R-43, MHP and CBD districts.
 - b. Sixteen (16) square feet in the C-1 district.
 - c. Thirty-two (32) square feet in C-2, I-1, I-2, and AG districts.
3. Directional signs which indicate the direction of traffic flow on private property. Directional signs shall not exceed two (2) square feet in size, shall contain no advertising, and may be illuminated.
 4. Street number. The sign shall not exceed two (2) square feet.

8.2.7 Sign removal.

1. The Zoning Administrator may direct the removal of signs not conforming to the ordinance.
2. The Zoning Administrator may seek reimbursement for the cost of removing non-conforming signs from or impose a civil infraction as established by the Village Council to the beneficiary of the sign.

Section 8.3 Permitted Freestanding Signs.

8.3.1. General Requirements.

1. One (1) freestanding sign shall be permitted per premise which has frontage on only one (1) public road.
2. Two (2) freestanding signs shall be permitted per premise which has frontage on two (2) public roads. One (1) sign shall not exceed the area requirements set forth herein. The second sign shall not exceed fifty (50%) percent of the area requirements set forth herein and is placed at least 100 feet from the first sign and along the other street.
3. A freestanding sign shall have a minimum setback of five (5) feet from a public road right-of-way and a setback distance equal to the height of the sign from all other property boundaries.
4. A freestanding sign which advertises multi-businesses located on that property may have a sign 150% larger than otherwise permitted.
5. The supporting sign structure shall not be more than one (1) foot higher than height of the permitted sign.

8.3.2. Specific Requirements. Freestanding signs shall be permitted by District in accordance with the following requirements.

<u>District</u>	<u>Ground Height Of the sign and supporting structure</u>	<u>Area</u>
1. CBD All permitted and special uses.	Six (6) feet	Twenty (20) square feet per side, not to exceed a total of forty (40) square feet
2. C-1 District	Eight (8) feet	Thirty two (32) square feet per side, not to exceed a total of sixty four (64) square feet
3. C-2 District	Twelve (12) feet, with a minimum of eight (8) feet ground clearance or eight (8) feet	Forty (40) square feet per side, not to exceed a total of eighty (80) square feet.
4. I-1 and I-2 Districts. All permitted and special uses.	Eight (8) feet	Forty (40) square feet per side, not to exceed a total of eighty (80) square feet.
5. R-1A, R-1B, R-2, and R-3 Districts. All non-residential permitted and special uses such as schools, churches, parks and municipal buildings.	Six (6) feet	Twenty (20) square feet per side, not to exceed a total of forty (40) square feet.
6. R-1A, R-1B, R-2, and R-3 Districts. Identification signs for subdivisions or other residential developments.	Six (6) feet	Sixteen (16) square feet per side, not to exceed a total of thirty two (32) square feet. Thirty two (32) square feet per side, not to exceed a total of sixty four (64) square feet
7. MHP Districts. Identification signs for mobile home park developments.	Six (6) feet	Thirty two (32) square feet per side, not to exceed a total of sixty four (64) square feet.

Section 8.4 Permitted Wall Signs.

The following wall signs shall be permitted in the following districts in accordance with the regulations herein.

8.4.1. General Requirements.

1. No wall sign shall be erected to extend above the top of the wall to which it is attached, or extend beyond the ends of the wall to which it is attached. Signs erected on the vertical portion of the mansard roof are considered to be wall signs.
2. All wall signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall sign be secured with wire, straps of wood or nails.
3. There shall be no more than one (1) wall sign permitted for each side of the building. Total square foot area requirements set forth in Section 8.4.2. are for each wall.
4. For buildings with distinct and separate uses, separate wall signs shall be permitted for each such use. However, the total allowable square footage shall not exceed the maximum allowable square footage specified for each district.
5. Signage on awnings are regulated as wall signs except the signage is limited to the height and width of the awning rather than the supporting wall.
6. Vertical wall signs are allowed and must adhere to the specifications for the district the sign is located.

8.4.2. Specific Requirements. Wall signs shall be permitted by the District in accordance with the following requirements.

	District	Height of sign	Area
1.	CBD and C-2 Districts. All permitted and special uses.	Four (4) feet	One (1) square foot for each lineal foot of building wall not to exceed a total of seventy two (72) square feet.
2.	C-1 District	Four (4)	One (1) square foot for each lineal foot of building wall not to exceed a total of thirty two (32) square feet.

3.	I-1 and I-2 Districts. All permitted and special uses.	Four (4)	One (1) square foot for each lineal foot of building wall not to exceed a total of seventy two (72) square feet.
4.	R-1A, R-1B, R-2 and R-3 Districts. All non-residential permitted and special uses such as schools, churches, parks and municipal buildings.	Two (2) feet	One (1) square foot for each lineal foot of building wall not to exceed a total of ten (10) square feet.
5.	R-1A, R-1B, R-2 and R-3 Districts. Identification signs for all residential developments.	Two (2) feet	One (1) square foot for each lineal foot of building wall not to exceed a total of ten (10) square feet.

Section 8.5 Permitted Projecting Signs.

8.5.1. Projecting and suspended signs shall be permitted in CBD Central Business Districts.

8.5.2. The surface area of the projecting or suspended sign shall not exceed twenty (20) square feet on each side or a total of forty (40) square feet. The total square feet of the projecting sign (both sides) shall be subtracted from the total allowable wall signage square footage permitted for the District which the sign is located.

8.5.3. The bottom of the projecting or suspended sign shall be a minimum of eight (8) feet above the surface of the sidewalk or ground area, or otherwise be located so as not to interfere with pedestrian traffic.

Section 8.6 Permitted Temporary Signs.

The following temporary signs shall be permitted in accordance with the regulations herein.

8.6.1. Permitted Real Estate.

1. One (1) non-illuminated sign used for advertising land or buildings for rent, lease, or sale shall be permitted in any district provided such signs are located on the property intended to be rented, leased, or sold. Such signs shall not exceed an area of six (6) square feet and a height of four (4) feet from grade in all single-family residential districts and an area of twenty (20) square feet and a height of six (6) feet from grade in all other districts.
2. One (1) non-illuminated freestanding sign listing persons or firms connected with developmental construction work being performed. Such signs shall not exceed thirty-two (32) square feet in area and a height of six (6) feet from grade, and shall be removed within thirty (30) days of issuance of the certificate of occupancy.

8.6.2. Temporary Signs and Promotional Banners.

1. In all districts, the Zoning Administrator may allow a new business, as part of its start-up phase, to use a temporary sign for up to a forty-five (45) day period. All

temporary signs permitted under this provision shall otherwise comply with all requirements pertaining to height and area for the zoning district in which the sign is located.

2. Permission to use portable non-illuminated changeable letter signs for a civic or charitable activity may be authorized by the zoning administration without fee. Use is limited to four (4) times per year not to exceed 30 days for any one use. The sign shall not exceed 32 square feet.
3. Permission to use a portable non-illuminated changeable letter sign for business or other related activities may be authorized by the zoning administration without fee. use is limited to two (2) times per year not to exceed 16 days for any one use. The sign shall not exceed 32 square feet.
4. Permission to display a promotional banner or sign for civic or charitable activity may be authorized by the Zoning Administrator without fee.
5. Within the CBD, C-1 and C-2 Districts, one promotional banner is permitted per premise at any given time. Only those businesses with direct pedestrian access from the public right of way shall be permitted to have a promotional banner. The temporary promotional banners shall not exceed twenty (20)–square feet in area. Neither the height nor the width of a temporary promotional banner shall exceed ten (10) feet. Temporary promotional banners shall not be located in a public right-of-way, must be affixed to the principal building of the business and shall be located and designed to avoid interference with or distraction to vehicular and pedestrian traffic.
6. All promotional banners which are not properly maintained shall be removed at the order of the Zoning Administrator.
7. All other promotional banners are strictly prohibited.

Section 8.7 Permitted Billboards.

The following regulations shall apply to billboards:

8.7.1. Where Permitted. Billboards shall be permitted only in the I-2 District, subject to the standards contained herein, and the Highway Advertising Act of 1972, as amended.

8.7.2. Spacing.

1. Not more than three billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the street or highway. The linear mile measurement shall not be limited to the boundaries of the Village of Lexington where the particular street or highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one (1) face visible to traffic proceeding from any given direction on a street or highway shall be considered as one (1) billboard. Additionally, billboard structures having tandem billboard faces (i.e., two (2) parallel billboard faces facing the same direction

and side by side to one (1) another) or stacked billboard faces (i.e., two (2) billboard faces facing the same direction with one (1) face being directly above the other) shall be considered as one (1) billboard. Otherwise, billboard structures having more than one (1) billboard face shall be considered as two (2) billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in Subsection 2 below.

2. No billboard shall be located within 1,000 feet of another billboard abutting either side of the same street or highway.
3. No billboard shall be located within two hundred (200) feet of a residential zone and/or existing residence. If the billboard is illuminated, this required distance shall instead be three hundred (300) feet.
4. No billboard shall be located closer than seventy-five (75) feet from a property line adjoining a public right-of-way or ten (10) feet from any interior boundary lines of the premises on which the billboard is located.

8.7.3. The height of a billboard shall not exceed thirty (30) feet above the level of the street or road upon which the billboard faces or to which the message upon the billboard is directed. In the event that the billboard is situated upon two (2) streets or roads having different levels, the height of the billboard shall be measured from the higher street or road.

8.7.4. Surface Area. The surface display area of any side of a billboard may not exceed three hundred (300) square feet. In the case of billboard structures with tandem or stacked billboard faces, the combined surface display area of both faces may not exceed three hundred (300) square feet.

8.7.5. Illumination. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.

8.7.6. Construction and Maintenance.

1. No billboard shall be on top of, cantilevered or otherwise suspended above the roof any building.
2. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.

Section 8.8 Miscellaneous Permitted Signs.

8.8.1. Directory Signs. For offices, office parks, industrial parks, and multi-tenant buildings in the CBD, directory signs which identify only the names and locations of occupants or uses within a building on a lot shall be permitted in addition to other signs permitted under these regulations.

1. No more than one (1) directory sign per lot is permitted, except where a lot has frontage on no less than two (2) sides.
2. No directory sign shall exceed twenty-four (24) square feet in area or six (6) feet in height from finished grade.
3. No directory sign shall be located closer than ten (10) feet to any property line in all districts except the CBD and shall not be a projecting sign.

8.8.2. Menu Board. One menu board for a restaurant shall be permitted in addition to other signs permitted under these regulations provided such sign does not exceed sixteen (16) square feet in area. The sign shall be a wall sign or mounted on an existing freestanding sign. In a C-2 District, on a twelve foot sign, the menu sign shall be no less than seven feet from the ground.

8.8.3. Changeable Copy Signs. Manual changeable copy signs shall be permitted when incorporated into a permitted wall or ground sign provided that the area devoted to changeable copy does not exceed twenty (20%) percent of the permissible sign area.

1. Lettering used on manual changeable copy signs directed to local or collector streets shall not exceed three (3) inches in height.
2. Lettering used on manual changeable copy signs directed to secondary or major arterial streets shall not exceed six (6) inches in height.
3. Lettering used on manual changeable copy signs directed to pedestrians shall be at least two (2) inches in height, but not more than four (4) inches in height.

8.8.4. Off-premise Directional Signs. Off-premise directional signs directing vehicular traffic to a church, governmental building, or educational institution may be permitted in all districts subject to the review of the Planning Commission and the following standards:

1. No more than two (2) signs per use shall be permitted.
2. The size of an off-premise directional sign shall not exceed two (2) square feet in size.
3. The height of an off-premise directional sign shall be no less than three (3) feet nor exceed six (6) feet from grade. However, variations in height may be granted by the Planning Commission to accommodate vehicular visibility to avoid obstruction to visibility.
4. Illumination shall not be permitted.
5. Permission of the property owner where the proposed sign is to be located must be provided and included with the permit application.

8.8.5. Historic Markers. If a structure within the Village has been designated a State Historical Site or listed in the National Register of Historic Places, then a marker designating that fact, obtained

from the appropriate state or federal agency, shall be permitted in addition to any other sign or signs which may lawfully be placed on the structure or the property on which the structure is located.

Anyone wishing to place a historic marker on a structure or property shall complete and file a sign permit application with the Zoning Administrator. No fee shall be charged for a historic marker application.

The Planning Commission shall review the proposed placement of the historic marker and no historic marker shall be placed on any structure or property unless a permit has been approved by the Planning Commission.

8.8.6. Window Signs.

1. Any sign, including the posting of hours of operation, display of credit cards, illuminated open sign, and/or street and building address, which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the sidewalk or street does not require a permit or fee.
2. Window signs shall not exceed more than thirty (30%) percent of the window area in which they are displayed. Non-temporary signs hung inside windows shall be made of clear materials, such as transparent plastic, with lettering painted or attached to them.
3. Window signs as described in (1) and (2) above do not count in the calculation of total building signage permitted.
4. Other permanent and/or illuminated window signs require a permit and application.

8.8.7. Mural Signs. When a mural or graphic includes identification of an establishment or specific services, good or products, or a representation of the types of services, good or products provided on the site, the mural area will count towards the total permitted wall sign area.

Murals are subject to conditional use approval based upon a recommendation from the Planning Commission and the following standards:

1. No mural may be placed on any building or structure that includes non-conforming signs.
2. Only one wall, facade, or surface of a building or structure may be used for a mural.
3. A wall, facade, or surface that is used for a mural pertaining to the business on which it is located shall be counted as one sign. A mural will count towards the total wall signage allowed for the business; however, the Village Council in its sole discretion may permit murals of larger size. Larger murals shall be permitted when determined to demonstrate at least one of the following:
 - a. Accentuates the historic features of the building.

- b. Masks an unattractive building facade.
 - c. Creates an aesthetically pleasing amenity.
 - d. Superior in aesthetics to an attached wall sign.
4. The owner of record of the building or structure on which the proposed mural is to be placed shall, in writing, consent to the placement of said mural on the property, and shall agree to restore the wall, facade or surface upon which the mural is placed to its prior existing condition if and at such time the mural is not maintained by the applicant. The permit application shall include a statement detailing the applicant's plans for the maintenance of the mural.
5. In the review of the conditional use, the Village Council shall grant approval only if the following criteria are met:
- a. The placing of the proposed mural at the location selected by the applicant would not constitute a significant traffic safety hazard.
 - b. Neither the mural, nor the placement of the mural, would endanger the public health, safety, or general welfare.
 - c. Neither the mural, nor the placement of the mural, would be injurious to the use and enjoyment of other property in the immediate vicinity of the proposed location.

8.8.8 Message sign. Non-profit organizations and public entities may have a message sign in addition to other permitted signs provided the sign does not exceed sixteen (16) square feet and is not over six (6) feet in height from the ground.

Section 8.9 Permits Required.

8.9.1. It shall be unlawful to display, erect, relocate, or alter any sign without obtaining a sign permit, except where otherwise specifically noted within the Ordinance.

8.9.2. A permit shall be issued by the Zoning Administrator only if the proposed sign meets all requirements of the Ordinance. If an alteration of an existing sign is limited to the information communicated on the sign without increasing its size or creating a structural modification, then a permit shall not be required.

8.9.3. When a sign permit has been issued by the Village, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of said permit without prior approval of the zoning official. A written record of such approval shall be entered upon the original permit application and maintained in the files of the Village.

8.9.4. The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his authorized agent, or a sign contractor. Such applications shall be made in writing on forms furnished by the Village and shall be signed by the applicant.

8.9.5. The application for a sign permit shall be accompanied by the following plans and other information;

1. The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or erector.
2. The location by street address of the proposed sign structure.
3. Complete information as required on application forms including a site plan and elevation drawings of the proposed sign, caption of the proposed sign, and such other data as are pertinent to the application.
4. Plans indicating the scope and structural detail of the work to be done, including details of all connections, guy lines, supports and footings, and materials to be use.
5. An application, including all required information, for an electrical permit if the sign will have an electrical connection.
6. A statement of valuation.

8.9.6 Temporary real estate signs, political signs and address identification signs do not required a permit. However, these signs must otherwise adhere to the ordinance.

8.9.7 Temporary signs and banners do not need a land use permit. However, these signs must be registered and adhere to the ordinance.

8.9.8 Temporary portable style signs do not need a land use permit. However, these signs must be registered and adhere to the ordinance. In the CBD district, these signs must not occupy the five foot sidewalk clear area space. In all other districts, the signs shall not be placed in a public right-a-way.

ARTICLE 9

OFF-STREET PARKING AND LOADING

Section 9.1 Intent and Purpose.

The purpose of this section is to ensure the provision of off-street parking facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with land uses now in place in the Village or with land uses allowed by this Ordinance.

Section 9.2 General Provisions.

9.2.1. **Where Required.** In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

9.2.2. **Existing Off-Street Parking at Effective Date of Ordinance.** Off-street parking existing at the effective date of this Ordinance which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this Ordinance.

9.2.3. **Required Greenbelt and Setbacks.** Off-street parking, including maneuvering lanes, shall not be located within the required front greenbelt in accordance with Section 6.2.6. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum five (5) foot setback is maintained between off-street parking and the side and rear lot lines of all adjoining properties. In C-1 and CBD districts, the parking lot design may incorporate the area in the front, side, and rear of the building without regard to setbacks or green space requirements provided the actual use adjacent to the property is compatible.

9.2.4. **Parking Duration.** Except when land is used as storage space in connection with the business of a repair or service garage, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, it being the purpose and intention of the foregoing that the requirement of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit, the storage or prolonged parking on any such parking area in any such district wrecked or junked cars, or for creating a junk yard or a nuisance in such areas.

9.2.5. **Units and Methods of Measurement.** For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

1. *Floor Area.* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that floor area's within the principal building used for parking, incidental service and storage, housing of mechanical equipment, heating systems and similar uses need not be included.
2. *Employees.* For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
3. *Places of Assembly.* In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each twenty-four (24) inches of such shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
4. *Fractional Requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one (1) parking space.

9.2.6. Location of Parking.

1. *One and Two Family Dwellings.* The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Article. Existing non-conforming driveways within the five (5) foot setback may be paved, repaved, asphalt, or re-asphalted.
2. *Multiple-Family Residential.* The off-street parking facilities for multiple-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as set forth in this Article. In no event shall any parking space be located nearer than ten (10) feet to any main building.
3. *Other Land Uses.* The off-street parking facilities required for all other uses shall be located on the lot or within three hundred (300) feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.
4. *Restriction on Parking on Private Property.* It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private property without the authorization of the owner or agent of such property.

Section 9.3 Off-Street Parking Requirements.

9.3.1. The amount of required off-street parking spaces for new uses or buildings, and additions to existing buildings shall be determined in accordance with the Schedule set forth in Section 9.4. Parking requirements listed in Section 9.4 shall not include off-street stacking spaces for drive-through facilities set forth in Section 9.7.

9.3.2. Similar Uses and Requirements. When a use is not specifically mentioned, the requirements of off-street parking for a similar use shall apply.

9.3.3. Collective Provisions. Nothing in this Section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with Section 9.4 of this Article.

9.3.4. Parking Exemption. As of the effective date of this Ordinance, buildings and uses located within the CBD - Central Business District shall be exempt from providing off-street parking. However, in no case should a building or use be expanded to remove off-street parking established before the effective date of this Ordinance.

9.3.5. Flexibility in Application. The Village recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in Section 9.4 may result in development with inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and storm water runoff and a waste of space which could be left as open space.

 The Village Council, based on a recommendation from the Planning Commission may permit deviations from the requirements of Section 9.4 and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question.

 The Village Council may attach conditions to the approval of a deviation from the requirement of Section 9.4 that bind such approval to the specific use in question. Where a deviation results in a reduction of parking, the Village Council may further impose conditions which ensure that adequate reserve area is set aside for future parking, as needed.

 The Village Council, based on a recommendation from the Planning Commission, may allow deviations from the hard durable surface lot requirement for seasonal or auxiliary lots. The recommended surface shall be suitable for the given parking area in question.

Section 9.4 Table of Off-Street Parking Requirements.

The amount of required off-street parking space for new uses or buildings, and additions to existing buildings shall be determined in accordance with the following table:

<u>Use</u>	<u>Required No. of Parking Spaces Per Each Unit of Measure as Follows:</u>	
A. Residential Uses.		
1) Single- or Two-Family Dwelling	2	Per each dwelling unit
2) Multiple-Family Dwelling	2	Per each dwelling, plus
	1	Per each ten (10) dwelling units
3) Senior Citizen Housing and Senior Assisted Living	1	Per each dwelling unit, plus
	1	Per each ten (10) dwelling units, plus
	1	Per each employee
B. Institutional Uses.		
1) Churches	1	Per each eight (8) seats based on maximum seating capacity in the main place of assembly therein.
2) Private Clubs & Lodges	1	Per each three (3) individual members allowed within the maximum occupancy load as established by fire and/or building codes
3) Hospitals	1	Per each four (4) beds, plus
	1	Per staff doctor, plus
	1	Per each employee @ peak shift
4) Convalescent Homes, Homes for the Aged, Children's' Homes	1	Per each five (5) beds, plus
	1	Per each staff doctor, plus
	1	Per each employee @ peak shift
5) High Schools, Trade Schools, Colleges & Universities	1	Per each teacher, plus
	1	Per each ten (10) students, plus
	1	Per each employee
6) Elementary & Middle Schools	1	Per each teacher, plus
	1	Per each twenty-five (25) students, plus
	1	Per each employee
7) Child Care Center, or Nursery Schools	1	Per each five (5) students, plus
	1	Per each employee
8) Day care homes	1	Per each employee and/or caregiver
9) Stadiums, Sports Arenas, and Auditoriums	1	Per each four (4) seats based on maximum seating capacity
10) Libraries, & Museums	1	Per each 500 sq. ft. of floor area

C. General Commercial Uses. (Subject to 9.3.5)

1)	Retail Stores, except as otherwise noted below	1	Per each 300 sq. ft. of floor area specified herein
2)	Supermarkets, drugstores, and other self-serve retail establishments	1	Per 200 sq. ft. of floor area
3)	Convenience Stores and Video Stores	1	Per 100 sq. ft. of floor area
4)	Planned shopping center	1	Per 150 sq. ft. of floor area for the first 15,000 sq. ft., plus
		1	Per 300 sq. ft. of floor area in excess of 15,000 sq. ft.
5)	Furniture, Appliances, Hardware, Household Equipment Sales	1	Per each 600 sq. ft. of floor area, plus
		1	Per each employee
6)	Motels and Hotels	1	Per each guest bedroom, plus
		1	Per each 10 guests bedrooms, plus
		1	Per employee, plus amount required for accessory uses, such as a restaurant or cocktail lounge
7)	Fast Food Restaurants	1	Per each 125 sq. ft. of floor area, plus
		1	Per each employee during peak shift
8)	Sit-Down Restaurants	1	Per each four (4) seats and for the first 48 seats, and per each eight seats for the next 49 seats to 100 seats, and per each 12 seats over 100 plus
		1	Per each employee during shift peak
9)	Taverns and cocktail lounges	1	Per each four (4) persons allowed within the maximum occupancy load as established by fire and/or building codes, plus
		1	Per each employee during peak shift
10)	Garden Stores, Building Material Sales	1	Per each 800 sq. ft. of lot area used for said business provided for herein
11)	Movie Theaters	1	Per each four (4) seats based on the maximum seating capacity, plus
		1	Per each employee
12)	Wholesale Stores, Machinery Sales, and other similar uses	1	Per each 800 sq. ft. of floor area, plus
		1	Per each employee

D. Automotive Uses

1)	Auto Sales	1	Per each 200 sq. ft. of showroom floor area, plus
		1	Per each employee, plus
		1	Per each service stall

2) Automotive Repair Facilities	2 1 1	Per each service stall, plus Per each employee, plus Per each service vehicle
3) Gasoline Stations without Convenience Store	1 2 1	Per each pump unit, plus Per each service stall, plus Per each employee
4) Gasoline Stations with Convenience Store	1 2 1 1	Per each pump unit, plus Per each service stall, plus Per each employee, plus Per each 100 sq. ft. of floor area devoted to retail sales and customer service
5) Car Washes (self-serve)	1 1 1	Per each wash stall, plus Per each vacuum station, plus Per each employee
6) Car Washes (Automatic)	1 1 1	Per 200 sq. ft. of floor area of customer waiting and service areas, plus Per each vacuum station, plus Per each employee
7) Collision or Bump Shops, and other similar uses	2 1	Per each stall or service area, plus Per each employee

E. Office and Service Uses

1) Medical & Dental Office	1	Per each 150 sq. ft. of floor area
2) Business & Professional Offices	1	Per each 200 sq. ft. of floor area
3) Banks	1	Per each 200 sq. ft. of floor area
4) Barber & Beauty Shops	3	Per each chair
5) Laundromats, or coin operated dry cleaners	1	Per each 2 washing or dry cleaning machines

F. Recreational Uses

1) Bowling Alleys	4 1	Per bowling lane, plus per employee, plus Amount required for accessory uses such as a restaurant or cocktail lounge
2) Private Tennis, Swim or Golf Clubs, or other similar uses	1	Per each two (2) memberships, plus Amount required for accessory uses such as a restaurant or cocktail lounge
3) Golf Course, open to the general public	4 1	Per each hole, plus Per each employee, plus Amount required for accessory uses such as a restaurant or cocktail lounge

G. Industrial Uses (Subject to 9.3.5)

1) Industrial or Manufacturing or Establishments	1 1	Per each employee, at peak shift, or Per each 800 sq. ft. of floor area (whichever is greater)
2) Warehouses and Storage Buildings	1 1	Per each employee, or Per each 2,000 sq. ft. of floor area (whichever is greater)
3) Contractors Office	1	Per each employee

Section 9.5 Off-Street Parking Lot Design and Construction.

The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance and such construction shall be completed and approved by the Zoning Administrator before use of the property as a parking lot and before a Certificate of Occupancy is issued. Unless incorporated in a site plan prepared and approved in accordance with Section 3.4, plans for the development of any parking lot must be submitted to the Zoning Administrator, prepared at a scale of not less than fifty (50) feet equals one (1) inch and indicating existing and proposed grades, drainage, pipe sizes, parking of all dimensions, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used and the layout of the proposed parking lot.

9.5.1. All such parking lots, driveways, or loading areas required for uses other than single- or two-family residential shall be a hard durable, smooth, and dustless surface and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued. Drainage for parking lots shall conform to the standards set forth in Section 6.11. Hard durable surface is defined as cement, bituminous materials (asphalt), or other comparable compacted materials for those adjacent to or ingressing from a state highway or located in the DDA district.

9.5.2. All illumination for all such parking lots shall meet the standards set forth in Section 6.8.

9.5.3. Parking lot landscaping and buffering requirements shall meet the standards set forth in Section 6.2.5.

9.5.4. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles.

9.5.5. Where necessary to prevent encroaching upon pedestrian walkway or damaging required landscaping, wheel stops shall be provided. No portion of a parking space and/or maneuvering aisle shall obstruct or encroach upon a public sidewalk.

9.5.6 All parking lots must clearly mark parking spaces either by painted lines, wheel stops, or the equivalent.

9.5.7. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations.

<u>Maneuvering Lane Width</u>				
Parking Pattern	One-way	Two-way	Parking Space Width	Parking Space Length
0 Parallel	12 ft	18 ft	9 ft	20 ft
30 – 53	12 ft	18 ft	9 ft	20 ft
54 – 74	15 ft	20 ft	9 ft	20 ft
75 - 90	18 ft	20 ft	9 ft	20 ft

Section 9.6 Off-Street Loading Requirements.

On the same premises with every building or part thereof, erected and occupied for any uses involving the receipt or distribution of trucks and/or delivery vehicles, material or merchandise, adequate space for loading and unloading shall be provided in accordance with the following:

9.6.1 Such loading and unloading space, unless completely and adequately provided for within a building, shall be an area ten (10) feet by fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule.

Gross Floor Area of Building Required Loading & Unloading Spaces (sq. ft.)

0-5,000	None
5,000-10,000	One (1) space with a minimum length of 20 ft
10,000-20,000	One (1) space
20,000 - 100,000	One (1) space plus one (1) space for each 20,000 sq ft in excess of 20,000 sq ft
100,000 - 500,000	Five (5) spaces plus one (1) space for each 40,000 sq ft in excess of 100,000 sq ft
over 500,000	Fifteen (15) spaces plus one (1) space for each 80,000 sq ft in excess of 500,000 sq ft

9.6.2. Required Greenbelt, Setbacks, and Screening.

1. Off-street loading areas, including maneuvering lanes, shall not be located within the front greenbelt required in accordance with Section 6.2. Off-street loading shall be permitted within the required side or rear yard setbacks, provided a minimum ten (10) foot setback is maintained between off-street loading and the abutting side and rear lot lines.
2. Off-street loading which abuts residentially zoned or used property shall be screened in accordance with Section 6.2.

9.6.3. Double Count. Off-Street loading space areas shall not be construed as, or counted toward, the supplying of area required as off-street parking space area.

Section 9.7 Off-Street Stacking Space for Drive-Through Facilities.

All businesses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking space and lanes which meets the following requirements:

9.7.1. Each stacking space shall be computed on the basis of ten (10) feet in width and twenty (20) feet in length. Each stacking lane shall be a minimum of twelve (12) feet in width.

9.7.2. Clear identification and delineation between the drive-through facility and parking lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety.

9.7.3. For all drive-through facilities which have a single stacking lane, an escape lane shall be provided which allows other vehicles to pass those waiting to be serviced.

9.7.4. The number of stacking spaces per service lane shall be provided for the following uses:

<u>Use</u>	<u>Stacking Spaces Per Service Lane</u>
Pharmacy	2
Banks	4
Photo Service	4
Dry-Cleaning	4
Fast-Food Restaurants	6
Car Washes (self-service)	
Entry	3
Exit	1
Car Washes (Automatic)	
Entry	6
Exit	2

When a use is not specifically mentioned, the requirements for off-street stacking space for the similar use shall apply.

Section 9.8 Outdoor Storage of Recreational Vehicles.

In all Residential Districts, a recreational vehicle may be parked or stored subject to the following conditions:

9.8.1. Storage or parking shall not be permitted on vacant lots or parcels, except as approved by the Zoning Administrator.

9.8.2. Unless within a completely enclosed building, a recreational vehicle shall be parked or stored in one of the following manners.

1. Within the side or rear yard, but no closer than five (5) feet from any side or rear lot line; or,
2. In those instances where the side or rear yard is not accessible or has insufficient clearance for the passage of a recreational vehicle, the Zoning Administrator may allow the parking or storage of a recreational vehicle in the front yard. In those instances where a recreational vehicle is to be parked or stored in a front yard, only the driveway portion of such yard shall be utilized and in no instance shall such recreational vehicle be parked or stored in a manner which obstructs pedestrian or vehicular visibility. In this instance, the vehicle shall be regulated like a wall in Section 6.3.7.

9.8.3. No recreational vehicle shall be used for living, sleeping, or housekeeping purposes on the premises, except for occasional living purposes to accommodate visitors not to exceed a maximum period of two (2) weeks.

9.8.4. No recreational vehicle shall be stored on a public street or right-of-way or private road easement.

9.8.5. A recreational vehicle stored outside shall be in a condition for the safe and effective performance of its intended function.

ARTICLE 10

NON-CONFORMING USES, STRUCTURES AND LOTS

Section 10.1 Intent.

Certain existing lots, structures and uses of lots and structures were lawful before this Ordinance was adopted, but have become non-conformities under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such non-conformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Non-conformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Non-conformities are declared by this Ordinance to be incompatible with the structures and uses permitted in the various Districts.

Section 10.2 Non-Conforming Lots.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this Ordinance.

Section 10.3 Non-Conforming Uses of Land.

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of the Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

10.3.1. No such non-conforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

10.3.2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

10.3.3. If such non-conforming use of land ceases operation for a period of more than six (6) months this shall constitute abandonment. Any subsequent use of such land shall conform to the regulations specified by the Ordinance for the district in which such land is located.

Section 10.4 Non-Conforming Structures.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

10.4.1. No such structure may be enlarged or altered in a way which furthers its non-conformity.

10.4.2. Should such structure be destroyed by any means to an extent of more than fifty (50%) percent of replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.

10.4.3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 10.5 Non-Conforming Uses of Structures and Land.

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

10.5.1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

10.5.2. Any non-conforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

10.5.3. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the non-conforming use may not thereafter be resumed. Subparagraph 10.4 of this section shall apply to any non-conformity relating to the structure(s).

10.5.4. If such non-conforming use of land and structures ceases operation for a period of more than six (6) months this shall constitute abandonment. Any subsequent use of such land shall conform to the regulations specified by this Ordinance pertaining to the uses permitted in the district in which such land is located. Structures occupied by seasonal uses shall be excepted from this provision only so long as seasonal uses shall continue.

10.5.5. Where non-conforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the non-conforming status of the land.

10.5.6. If no structural alterations are made, any non-conforming use of structure, or structure and premises, may be changed to another non-conforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

Section 10.6 Repairs and Maintenance.

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50%) percent of the replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

A nonconforming structure, nonconforming portion of a structure, or a structure containing a nonconforming use which is physically unsafe or unlawful due to lack of repairs and maintenance, as determined by the Building Official may be restored to a safe condition. Where enlargement or structural alternation is necessary to allow compliance with health and safety laws or ordinances, the cost of such work shall not exceed twenty-five (25%) percent of the structure's fair market value, as determined by the Assessor at the time such work is done.

Section 10.7 Uses Allowed As Conditional Approval Uses, Not Non-Conforming Uses.

Any use for which conditional approval is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

Section 10.8 Change of Tenancy or Ownership.

There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures, and premises provided there is no change in the nature or character of such non-conforming uses except in conformity with the provisions of this Ordinance.

Section 10.9 Non-Conforming Uses of Signs.

Any sign, billboard, commercial advertising structure or object which existed and was maintained at the time this zoning ordinance was adopted and which are subject to the regulations of this zoning ordinance because of any changes or additions made by this new ordinance, shall be deemed a non-conforming sign. Non-conforming signs may remain provided they are not expanded, enlarged or reduced other than routine maintenance and upkeep of the sign itself. Any non-conforming sign shall be removed or made to conform to the provision of this ordinance within thirty (30) days of the happening of any of the following events:

6. The change of the activity advertised thereon.
7. Change in the use of the property on which the sign is located.
8. Any alterations or changes to the sign.

ARTICLE 11

ZONING BOARD OF APPEALS

Section 11.1 Authority.

There is hereby established a Zoning Board of Appeals (ZBA), the membership, powers, duties of which are prescribed in Public Act 110 of 2006 (MCL 125.3601 et seq.), as amended. The Zoning Board of Appeals, in addition to the general powers and duties conferred upon it by said Act, in specific cases and subject to appropriate conditions and safeguards, shall interpret and determine the application of the regulations established under this Ordinance in harmony with their purpose and intent as hereinafter set forth.

Section 11.2 Membership.

The Zoning Board of Appeals shall consist of three (3) members appointed by the Village Council.

1. The members of the Zoning Board of Appeals shall be selected from the electors of the village. The members selected shall be representative of the population distribution and the various interests present in the village. An employee or contractor of the Village Council may not serve as a member of the Zoning Board of Appeals.
2. Terms shall be for three (3) years, and the period stated in the resolution appointing them. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
3. The Village Council may appoint not more than two (2) alternate members for the same term as regular members to the board. The alternate member(s) has the same voting rights as a regular member of the board when serving. The alternate member appointed to a case shall serve in the case until a final decision is made. An alternate member may be called to serve as a regular member of the board if;
 - a. the regular member is absent from or will be unable to attend one (1) or more meetings, or
 - b. a regular member needs to abstain for reasons of conflict of interest.

Section 11.3 Removal of Members/Conflict of Interest

A member of the Zoning Board of Appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

Section 11.4 Meetings.

11.4.1. All decisions of the Board shall be made at a meeting open to the public. All deliberations of the Board constituting a quorum of its member shall take place at a meeting open to the public except as provided in compliance with the Open Meetings Act, Act 267 of 1976 as amended.

11.4.2. A majority of the members of the Board shall constitute a quorum for purposes of transacting the business of the Board and the Open Meetings Act, Act 267 of 1976, as amended. Each member of the Board shall have one (1) vote.

11.4.3. Regular meetings of the Board shall be called as needed in response to receipt of a Notice of Appeal, so long as the meeting is scheduled within twenty (20) days of the notice of Appeal. The meeting can be called by the Zoning Administrator, the Chair of the Appeals Board, or, in his or her absence, the Vice-Chair. Public notice of the date, time, and place of a public meeting of the Board shall be given in the manner required by Act 267 of 1976, as amended.

11.4.4. The business of the Board of Appeals shall be conducted in accordance with its adopted bylaws.

11.4.5. The Chair, or in his or her absence, Vice-Chair may administer oaths and compel the attendance of witnesses.

Section 11.5 Powers and Duties.

11.5.1 General. The Zoning Board of Appeals has the power to act on matters as provided in this Ordinance and Public Act 110 of 2006 (MCL 125.3601 et seq.), as amended. The specific powers of the ZBA are enumerated in the following sections of this Article

11.5.2. Voting. The concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirements, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of 2/3 of the members of the board shall be necessary to grant a variance from uses of land permitted in an ordinance.

A member shall be disqualified from a vote in which there is a conflict of interest. Failure of a member to disclose a conflict of interest and be disqualified from a vote shall constitute misconduct in office.

11.5.3. Administrative Review. The Board shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or other duly authorized enforcing agent, in enforcing any provision of this Ordinance.

11.5.4. Interpretation.

1. The Board shall hear and decide requests for interpretation of this Ordinance or the Zoning Map taking into consideration the intent and purpose of the Ordinance and the General Development Plan.
2. A record shall be kept by the ZBA of all decisions for interpretation of this Ordinance or Zoning Map and land uses which are approved under the terms of this section. The ZBA may request that the Planning Commission consider initiation of an amendment to clarify a point that has given rise to uncertainty.

11.5.5. Variances. Upon an appeal, the Board is authorized to grant a variance from the strict provisions of this ordinance, whereby extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this ordinance. Further, in granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance as outlined below. When granting any variance, the Board must ensure that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

1. *Use variance.* The applicant must present evidence to show that if the zoning ordinance is applied strictly, unnecessary hardship to the applicant will result, and that all four of the following requirements are met:
 - a. That the property could not be reasonably used for the purposes permitted in that zone;
 - b. That the appeal results from unique circumstances peculiar to the property and not from general neighborhood conditions;
 - c. That the use requested by the variance would not alter the essential character of the area; and
 - d. That the alleged hardship has not been created by any person presently having an interest in the property.
2. *Nonuse variances.* The applicant must present evidence to show that if the zoning ordinance is applied strictly, practical difficulties will result to the applicant and:
 - a. That the ordinance restrictions unreasonably prevent the owner from using the property for a permitted purpose;
 - b. That the variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners;

- c. That the plight of the landowner is due to the unique circumstances of the property; and
- d. That the alleged hardship has not been created by any person presently having an interest in the property.

Section 11.6 Procedure for Appeal.

11.6.1. An applicant requesting any action by the Board shall commence such request by filing a notice of appeal, on the form supplied by the Village, accompanied by such appeal fee as determined by the Village Council, and all plans, studies and any other information and data as applicable, all of which shall be made a part of the record.

11.6.2. Every appeal from a determination of the Zoning Administrator or other duly authorized enforcing agent shall be made by the applicant within thirty (30) days of the date of the order issuance or refusal to issue permit, requirement, or refusal.

11.6.3. The ZBA shall fix a time for a hearing on the appeal, and shall notify the applicant of the time and place of such hearing. Notice of all public hearings conducted by the ZBA shall appear in a newspaper of general circulation in the Village not less than 15 days before the date of the hearing. Where the appeal pertains to a specific parcel(s) of property, notice of the public hearing(s) shall be sent not less than 15 days before the date of the hearing to the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The Village Clerk shall prepare an affidavit of mailing.

Notice under the above paragraph is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.

A notice under this section shall do all of the following:

- a. Describe the nature of the request.
- b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- c. State when and where the request will be considered.

- d. Indicate when and where written comments will be received concerning the request.

11.6.4. Any person may appear in person at the public hearing, or be represented by an agent or attorney, and present any evidence in support of their appeal. The Board of Appeals shall have the power to require the attendance of witness, administer oaths, compel testimony, and otherwise cause the production of books, papers, files, and other evidence pertaining to matters properly coming before the Board of Appeals.

11.6.5. The Board shall not decide an appeal until after a public hearing.

11.6.6. The Board may reverse, affirm, vary, or modify, any order, requirement, or determination, as to which it has the power to consider, and have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

11.6.7. The Board may impose conditions with any decision. Such conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, public 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.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning 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. Violations of any of these conditions shall be deemed a violation of this Ordinance, enforceable as such, and/or may be grounds for revocation or reversal of such decision.

11.6.8. All decisions of the Board shall be in writing and so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts, and findings of the Board. The applicant shall be advised of the decision after the public hearing unless the Board moves for a continuation of such hearing.

11.6.9. Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct, and the conditions upon which the decision was based are maintained.

11.6.10. The Board may reconsider an earlier decision, if, in the opinion of the Board, circumstances justify taking such action.

11.6.11. No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period of longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year, unless such use is established within such period; provided, however, that such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

11.6.12. Any person or persons, or any board or department of the Village having an interest affected by a decision of the Board shall have the right to appeal to the circuit court on questions of law and fact. Such appeal must be taken within twenty-one (21) days after the date of the Board's decision. A request for reconsideration under subsection (10) above shall not toll the time for taking such appeal. In the event a request for reconsideration is granted, the time period for appeal shall commence from 21 days from the date of the decision of the meeting where the appeal was reconsidered. In any event, only one request for reconsideration on each appeal shall be allowed.

Section 11.12. Severability Clause:

The various parts of this ordinance shall be deemed severable. Should any section, paragraph, or provision hereof be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part held to be unconstitutional or invalid.

Section 11.13. Repeal:

All Ordinances or portions, thereof, which are in conflict with this Ordinance are hereby repealed.

Section 11.14. Effective Date:

Public hearing having been held hereon, the provisions of this Ordinance shall take effect upon the expiration of seven days after publication, pursuant to the provision of Section 401 (6), Act 110 of the Public Acts of 2006, as amended.

Section 11.15. Adoption

Made and passed by the Village Council of the Village of Lexington, Sanilac County, Michigan, on this 26th day of **October** 2009, A.D.

1. Date of Public Hearing: October 5, 2009
2. Date of Adoption by Village Council: October 26, 2009
3. Date of Publication: November 1, 2009
4. Date and Time Ordinance Shall Take Effect: November 9, 2009; at 12 noon.

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