

Planning Commission Meeting

April 10, 2017

Present: D. Ferguson, M. George, K. Karn, J. Glassman, L. William

Absent: None

Visitors: Virginia Gonzalez

Motion by D. Ferguson to approve the Agenda as presented, second by J. Glassman, All Ayes, Motion Carried

Motion by K. Karn to Approve of Planning Commission Meeting Minutes from February 21, 2017, Second by M. George, All Ayes, Motion Carried

The Planning Commission met to approve a schedule of fees for the 2015 Zoning Ordinance.

Fees: a comparison spread sheet of other local community fees was reviewed.

Zoning Permit Application:	\$30.00
Special Use Permit	\$175.00
Zoning Board of Appeals	\$200.00 (All Actions)
Zoning Ordinance with Map	\$35.00
Zoning Map	\$15.00
Second Inspection	\$30.00
Amendment	\$200.00

Construction w/out a Permit \$100.00 Plus the cost of the Permit.

Applicants are Responsible for the cost of any Public Hearing Notice Publication and Mailing Expenses incurred during the permit process. All Fees must be paid in advance.

Motion by K. Karn to accept the Fees for the Fee Schedule, Second by L. Williams, All Ayes, Motion Carried.

To Obtain a Physical Address for a Property:

You must speak to the following:

DEPARTMENT OF GIS AND LAND DESCRIPTION

Lex Winans, Director

Berrien County Administration Center
701 Main Street St. Joseph, MI 49085

Phone: (269) 983-7111, ext. 8300

Fax: (269) 983-8611

E-Mail: lwinas@berriencounty.org

Hours: 8:30 A.M. - 5:00 P.M. Monday-Friday

He will then contact the appropriate Township Assessor

You may have to speak to the Township Assessor as well as the Land Description

Department at the Courthouse.

Pipestone Township Assessor : Scott Anderson 269-621-6290

Email: assessor42@outlook.com

Or for Berrien Township Assessor: Angela Kirby 269-461-6925

Email: berrientwp@comcast.net

VILLAGE OF EAU CLAIRE
BERRIEN COUNTY, MICHIGAN

COMPREHENSIVE ZONING ORDINANCE AMENDMENT
2015

ORDINANCE NUMBER 2015-1

Adopted - April 20, 2015

Effective - April 29, 2015

ZONING ORDINANCE OF THE VILLAGE OF EAU CLAIRE

Berrien County, Michigan

Ordinance Number 2015-1

Repeals and Replaces Ordinance Number 1978 - 4

Adopted – April 20, 2015

Prepared by the:

Village of Eau Claire Planning Commission
Village Hall
6625 E. Main Street
Eau Claire, Michigan 49111
(269) 464-6173

With assistance from:

Wightman & Associates, Inc.
2303 Pipestone Road
Benton Harbor, Michigan 49022
(219) 927.0100

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ORDINANCE NUMBER _____
Adopted – April 20, 2015 Effective _____

VILLAGE OF EAU CLAIRE ZONING ORDINANCE

An ordinance enacted under the Michigan Zoning Enabling Act P.A. Act 110, of 2006, to provide for the establishment in the Village of Eau Claire of districts or zones within which the use of land and structures, the height, the area, the size, and location of buildings may be regulated by ordinance, and within which districts regulations shall be established for the light and ventilation of those buildings, and within which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property which does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this Act; to provide for the establishment of a board of appeals; to provide for amendments, supplements, or changes hereto; to provide for conflict with the state housing code or other acts, ordinances, or regulations; and to provide penalties for the violation of the terms of this Act.

**ARTICLE I
PREAMBLE AND ENACTMENT**

WHEREAS, The Michigan Zoning Enabling Act P.A. Act 110, of 2014 and Act 638, P.A. 1978, empowers this municipality to enact, establish, administer and enforce a Zoning Ordinance, and

WHEREAS, the legislative body of the Village of Eau Claire deems it necessary, for the purpose of promoting the public health, safety, and general welfare of the Village to enact such an Ordinance, and

WHEREAS, the legislative body pursuant to the provisions of Act 110, P.A 2006, as amended has amended, has appointed and created a Village Planning Commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein, and

WHEREAS, the Village Planning Commission has divided the municipality into districts and has prepared regulations pertaining to such districts in accordance with a master plan land use designed to lessen congestion in the streets, to secure safety from fire, panic and other potential dangers; promote health, safety and the general welfare; provide adequate light and air; prevent overcrowding of land; avoid undue concentrations of population; facilitate adequate provision for transportation, water, sewerage disposal, schools, parks and other public improvements, and

WHEREAS, the Village Planning Commission has given full and reasonable consideration to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and

WHEREAS, the Village Planning Commission has given due public notice of hearing related to the comprehensive amendment and has held such public hearings as required by law, and

WHEREAS, the Village Planning Commission has submitted its report to Village Council, and

WHEREAS, all requirements of Act 110, P.A. 2006, as amended, with regard to the preparation of this Ordinance and subsequent action of the Village Council have been met.

NOW THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF EAU CLAIRE, BERRIEN COUNTY, MICHIGAN, AS FOLLOWS:

ARTICLE II TITLE AND PURPOSE

Section 2.01 - Title.

This Ordinance shall be known as “**The Village of Eau Claire Zoning Ordinance.**” Within the following text it may be referred to as the “Ordinance.”

Section 2.02 - Purpose.

The fundamental purpose of this Ordinance is to:

1. promote the public health, safety, morals and general welfare;
2. develop and preserve the natural beauty and aesthetic quality of the community;
3. preserve property values;
4. to encourage the use of lands in accordance with their character and adaptability;
5. to limit the overcrowding of population;
6. to promote adequate air and light;
7. to lessen congestion on the public and private roads and streets;
8. to reduce hazards to life and property;
9. to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public improvements and service;
10. to conform with the most advantageous uses of land, resources and properties within the Village of Eau Claire, Berrien County, Michigan.

Section 2.03 - Zoning Permit / Building Permit Required for all Construction.

Prior to the issuance of any Building Permit in the Village it shall be necessary for any applicant for construction under the provisions of the Michigan Construction Code to first apply for, follow the necessary procedures and obtain a zoning permit from the Zoning Administrator of the Village in accordance with the provisions of this Zoning Ordinance. A Zoning Permit is required for all accessory use structures including fences, signs, storage structures and any building or structure not regulated by the Michigan Construction Code.

ARTICLE III ZONING DISTRICTS AND MAP

Section 3.01 - Creation of Zoning Districts.

For the purpose of this ordinance, the Village shall be divided into the following zoning districts, which shall be known by the names and symbols here shown.

R	Single-Family Residential District
MF	Multi-Family Residential District
CD	Cluster Development (overlay)
CBD	Central Business District
C	General Commercial District
I	Industrial District
PUD	Planned Unit Development (overlay)

Section 3.02 - Zoning Map.

The boundaries of the Village zoning districts are shown on a map adopted by the Village Council. The map shall be entitled "Zoning Map, Village of Eau Claire, Berrien County, Michigan" and shall bear the date adopted, or amended. It shall be the duty of the Village President and Clerk to authenticate such records by placing their official signatures thereon. Such map with all accompanying explanatory matter is hereby made a part of this Ordinance and shall be, as such, a part of this Ordinance as if the matters and information set forth thereon were all fully described herein.

Section 3.03 - Application of this Ordinance.

Except as otherwise provided in this Ordinance, erection of buildings and uses of land shall conform to the specific provisions for the zoning districts involved. No land shall be redeveloped or use commenced, expanded or continued within the Village except as specifically, or by necessary implication, authorized by this Ordinance.

Lawful nonconforming structures and uses existing at the time of passage of this Ordinance are specifically governed by Article XIX and generally governed by this Ordinance.

Section 3.04 - Interpretation of District Boundaries.

- A. Unless otherwise shown, the boundaries of the districts are lot lines, the centerline of streets or alleys, or such lines extended, and the limits of the Village of Eau Claire.
- B. Where a district boundary line, as established in this section or as shown on the zoning map, divides a lot which was in a single ownership and of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot, under this ordinance, shall be considered as extending to the entire lot, provided that the more restricted portion of such lots is entirely within twenty-five (25) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- C. Where due to the scale, lack of detail or illegibility of the zoning map of this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted upon written request, or upon its own motion, by the Board of Appeals, after recommendation by the Planning Commission.
- D. Where a district boundary line follows a shoreline, such boundary shall be construed to be the shoreline. In the event of a change in the shoreline, the boundary line shall be construed to move with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be structured to follow such center lines.

Section 3.05 - Permissive Zoning.

Land uses are permitted specifically in the various zoning districts of this ordinance. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted. No land contained within any zoning district within the Village shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Article XVI, Nonconformities.

Section 3.06 - Uses Permitted as a Right.

Permitted uses, as identified in articles covering each district, are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the general provisions, parking regulations, district intent, permit, certificate and site plan requirements found elsewhere in this Ordinance, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions, unless otherwise indicated herein.

Section 3.07 - Uses Permitted Under Special Approval.

The uses identified as special approval uses in articles covering each district are recognized as possessing characteristics of such unique and special nature (relative to location, off-site impacts, design, size, public service, utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. Article XV regarding procedure and requirements for special uses, shall apply to these uses.

Section 3.08 - Zoning of Vacated Areas.

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

Section 3.09 - Zoning of Annexed Areas.

Any area annexed to the Village shall, immediately upon such annexation, be automatically classified as the R- Residential Single Family zoning district unless annexed into the Village pursuant to P.A. 171 of 1958, as amended, providing for the transfer of the current zoning classification or in the absence of this agreement, until a zoning map for said area has been adopted by the Village Council. The Planning Commission shall recommend appropriate zoning for such area within six (6) months after the annexation has taken place.

ARTICLE IV R- SINGLE FAMILY RESIDENTIAL DISTRICTS

Section 4.01 - Intent. The Single Family Residential District is planned as the prime residential area for the placement of single family dwellings and certain other compatible accessory use buildings, structures and land uses.

Section 4.02 - Uses Permitted by Right. No building, structure, or part thereof shall be erected, altered or used, or land used, in whole or in part, except for the following permitted uses:

- A. One single-family dwelling and accessory use buildings and structures on a zoning lot.
- B. Publically owned and operated parks and accessory buildings.
- C. Agriculture crop production.
- D. Minor home occupations within a single-family permitted principal use (See Article XVI).
- E. An essential service as defined in this Ordinance.

Section 4.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XV.

- A. Major home occupations permitted within a single-family home or accessory building (See Article XVI)
- B. Adult and Child Care as part of a home occupation.
- C. Bed and breakfast operations in compliance with Article XII, Section 12.08.
- D. Schools, churches, Village or other government agency buildings.
- E. Utility and wireless communication facilities deemed an essential service, or regulated else ware.

Section 4.04 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted, including one (1) private garage, a private swimming pool for the exclusive use of residents and their guests, permitted signs, private off-street parking facilities, fences, wall or privacy screens and (1) satellite dish antenna per principal use structure shall be consider accessory allowable accessory uses and may not be erected, altered or used in this district except in conformity with the yard requirements set forth in Article XII, Section 12.02.

Section 4.05 - Signs Permitted. Signs permitted in the R - Residential District shall conform to the provisions of Article XIV.

Section 4.06 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIII.

Section 4.07 - Visual Screening Requirements. An adequate visual blockage screen between any outdoor storage area and the side or rear yard lot line shall be required. This visual blockage shall be no less than six (6) feet in height.

Section 4.08 - Building Height Regulations. No residential building or structure shall exceed two and one-half (2½) stories or exceed thirty-five (35) feet in height.

Section 4.09 - Yard, Setback and Lot Area Regulations. No principal or accessory use building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and width requirements:

- A. Front Yard: There shall be a front yard of no less than thirty-five (35) feet, provided where there are existing buildings or structures having front yards less than thirty-five (35) feet in depth, the Zoning Administrator may approve a setback equal to the average depth of previously constructed buildings located within two hundred (200) feet on either side of the building proposed to be erected.
- B. Side Yard: There shall be a side yard so located that the side yard on each side of the building shall not be less than seven (7) feet in width measured from the side lot line to nearest point on any part of the structure erected thereon, including overhang of roof eaves.
- C. Rear Yard: There shall be a rear yard of no less than twenty-five (25) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.
- Accessory Use Rear Yard: There shall be a rear yard for all accessory use buildings and structures including (e.g. garages, play structures, storage sheds, etc.) of no less than seven (7) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.
- D. Lot Area: The minimum lot area shall be no less than eight thousand five hundred (8,500) square feet.
- C. Lot Width: The minimum width shall be no less than sixty-five (65) feet.
- D. Maximum Lot Coverage of All Buildings and Structures: The maximum lot coverage shall not exceed forty (40) percent.

Section 4.10 - Area of Dwelling. Every single-family dwelling shall have a floor area of no less than one thousand two-hundred fifty (1,250) square feet. Each dwelling unit in this district shall have a minimum of two-thirds of the required minimum floor area on the ground level (ie: 833 sq. ft.). Each dwelling unit in this district shall also have a front building dimension of not less than thirty-three (33) feet measured at the foundation. The minimum front building dimension shall be maintained not less than thirty-three (33) percent of the length of the longest building side wall.

ARTICLE V
MF - MULTI-FAMILY RESIDENTIAL DISTRICT

Section 5.01 - Intent. The Multi-Family Residential District is planned as the residential area for the erection of attached multi-family dwellings and certain other compatible accessory use buildings, structures and land uses.

Section 5.02 - Uses Permitted by Right. No building, structure, or part thereof shall be erected, altered or used, or land used, in whole or in part, except for the following permitted uses:

- A. One, or more, buildings or structures containing two, or more, dwelling units on a zoning lot.
- B. One two-family dwelling and accessory use buildings or structures on a zoning lot.
- C. Minor home occupations within a single-family permitted principal use (See Article XII).
- D. Publically owned and operated parks and accessory buildings.
- E. Utility and wireless communication facilities deemed an essential service, or regulated else ware

Section 5.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XV.

- A. Major home occupations permitted within the owner occupied dwelling unit of a two-family home or its accessory building (See Article XVII).
- B. Schools, churches, Village or other government agency buildings.
- C. Utility transmission facilities not deemed an essential service.

Section 5.04 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted, including one (1) private garage, a private swimming pool for the exclusive use of residents and their guests, permitted signs, private off-street parking facilities, fences, wall or privacy screens and (1) satellite dish antenna per principal use structure shall be consider accessory allowable accessory uses and may not be erected, altered or used in this district except in conformity with the yard requirements set forth in Article XII, Section 12.02.

Section 5.05 - Signs Permitted. Signs permitted in the MF - Residential District shall conform to the provisions of Article XIV.

Section 5.06 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIII.

Section 5.07 - Visual Screening Requirements. An adequate visual blockage screen between any outdoor storage area in the side or rear yard lot line shall be required. This visual blockage shall be no less than six (6) feet in height.

Section 5.08 - Building Height Regulations. No residential building or structure shall exceed two and one-half (2½) stories or exceed thirty-five (35) feet in height.

Section 5.09 - Yard, Setback and Lot Area Regulations. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and width requirements:

- A. Front Yard: There shall be a front yard of no less than twenty-five (25) feet, provided where there are existing buildings or structures having front yards less than twenty-five (25) feet in depth, the Zoning

administrator may approve a setback equal to the average depth of previously constructed buildings located within two hundred (200) feet on either side of the building proposed to be erected.

- B. Side Yard: There shall be a side yard so located that the side yard on each side of the building shall not be less than five (5) feet in width measured from the side lot line to nearest point on any part of the structure erected thereon, including overhang of roof eaves. Side yard setbacks adjacent to an R - District shall be a minimum of fifteen (15) feet. There shall be no parking in this setback or within fifteen (15) feet of any lot line adjacent to any R - District.
- C. Rear Yard: There shall be a rear yard of no less than twenty-five (25) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.

Accessory Use Rear Yard: There shall be a rear yard for all accessory use buildings and structures including (e.g., garages, play structures, storage sheds, etc.), of no less than five (5) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.

- D. Lot Area: No multi-family dwelling units shall be constructed on a lot having a building area of less than seven thousand five hundred (7,500) square feet in the area and shall be further enlarged in accord with the following schedule:

<u>Dwelling Unit Size</u>	<u>Minimum Lot Area</u>
Efficiency or one (1) bedroom	3,600 square feet
Two (2) bedroom unit	4,000 square feet
Three (3) bedroom unit	4,400 square feet
Four (4) bedroom units	4,800 square feet
add two hundred (200) square feet for each bedroom over four bedrooms in the dwelling unit.	

- E. Lot Width: The minimum width shall be fifty (50) feet.
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed fifty (50) percent.

Section 5.10 - Area of Dwelling. Every two-family dwelling unit in the Multi-Family Residential District shall have a floor area of no less than one thousand five-hundred (1,500) square feet. Each two-family dwelling unit in this district shall have a minimum of two-thirds of the required minimum floor area on the ground level (ie 833 sq. ft.). Floor area requirements for rental occupied living units located within a multi-unit structure shall comply with the following schedule:

<u>Number of Bedrooms</u>	<u>Minimum Floor Area Per Unit</u>
Efficiency unit	400 square feet
Two (2) bedroom unit	800 square feet
Three (3) bedroom unit	1,000 square feet
Four (4) bedroom units	1,500 square feet
add one hundred fifty (150) square feet for each bedroom over four bedrooms in the dwelling unit.	

Section 5.11 - Spacing Between Multiple Dwellings on a Single Lot.

Spacing between multiple dwelling structures located on a single lot shall comply with the following schedule:

<u>Building Relationship</u>	<u>Overall Distance Between Buildings</u>
Front to front	60 feet
Front to rear	60 feet
Rear to rear	60 feet
Rear to side	40 feet
Side to side	20 feet

Corner to corner

15 feet

ARTICLE VI
CD - CLUSTER RESIDENTIAL DEVELOPMENT DISTRICT
(OPEN SPACE PRESERVATION)

Section 6.01 - Intent. The Cluster Residential Development (overlay) District is an alternative development process from the traditional zoning regulations governing residential development as required by Section 16h of the Michigan Zoning Enabling Act, P.A. 110 of 2006. Specifically, the Article provides the option for a developer or land owner to develop the same number of dwelling units as authorized by the underlying zoning district regulation on eighty (80) percent, or less (at the discretion of the local municipality), of the property where such undeveloped portion of the property is dedicated as open space in perpetuity.

Section 6.02 - Open Space Defined. Open space for the terms of this Ordinance is defined as land other than streets, roads, driveways, parking areas, building lots, landscaped yard areas immediately surrounding building and structures and any other portion of the property not left in (or restored) with natural vegetative cover greater than twenty-five (25) feet wide and running continuous and contiguous throughout the proposed cluster development, except for the crossing of streets, roads and walkways.

Section 6.03 - Relationship to Underlying Zoning Regulations. The Cluster Residential Development (overlay) District option for land development is allowable for use on any vacant and undeveloped parcel of land located within an R and MF Residential Zoning Districts having minimum of two (2) acres of land area.

- A. **Uses Permitted by Right and Special Use Permit.** Any use permitted by right and any use permitted by special use permit allowable by the terms of the underlying zoning district in which the property is located shall be permitted within a cluster development provided any special use permit shall be issued in accordance with the terms of this Ordinance.
- B. **Applicable Gross Density.** The gross density of development of the subject property shall be determined by dividing the minimum lot size required by the underlying zoning district in which the property is located into the gross square feet of the property to be developed; mathematically rounded upward to the higher whole number.
- C. **Setback, Lot Frontage and Building Height Provisions.** All cluster developments shall provide a front, rear and side yard setback around the perimeter of the property line equal to the minimum requirements of the underlying zoning district in which the property is located. The lot frontage of the cluster development shall (unless varied by the Board of Appeals) conform to the minimum lot frontage requirement of the underlying zoning district in which the property is located. Building height requirements shall conform to the requirement of the underlying zoning district in which the property is located.
- D. **Public Water and Wastewater Requirements.** No cluster development shall be approved which does not provide public water and wastewater service to all habitable buildings and structures.

Section 6.04 - Site Plan and Rezoning Approval Requirements. An application for cluster development approval shall be accompanied with a site plan which shall be processed in accordance with Article XVII. Approval of a cluster development is a rezoning of the subject property designating the property as a Cluster Development (overlay) District.

Section 6.05 - Plat of Subdivision or Condo Subdivision Plan (Exhibit C) Requirement. All cluster developments shall be recorded as a Plat of Subdivision pursuant to the Michigan Land Division Act, P.A. 87 of 1997, as amended (formally the Michigan Subdivision Control Act) or as a Subdivision Plan (Exhibit C to the Master Deed) pursuant to the requirements of the Michigan Condominium Act, P.A. 58 of 1978, as amended.

Section 6.06 - Permanent Open Space Requirements. Permanent open space, for the terms of this Ordinance, shall mean permanently undeveloped by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land, in a form acceptable to the Planning Commission and Village Council. In acceptance of the plat/plan of

subdivision, pursuant to the Michigan Land Division or Condominium Act, the Planning Commission and Village Council shall consider the form of management and maintenance of the open space and apply such conditions to the approval of the Plat of Subdivision or Plan of Subdivision to assure that such open space shall be properly managed and maintained in perpetuity and that the conservation easement, deed restrictions or condominium dedication shall be adequately monitored and enforced by the organization or entity holding title to the easement or property rights of the designated open space.

Section 6.07 - Incentive Bonus Density for Increased Open Space. The Planning Commission may approve upon request by the developer and upon finding the proposed plan increases the amount of open space beyond twenty (20) percent of the total lot area, an increase in the number of units allowable by the terms of the underlying zoning district. The increase in the number of units shall not exceed fifty (50) percent of the gross density, the total number of units allowable by the terms of the underlying zoning district.

Section 6.08 - Variances Due to Unique Site Conditions. Upon a finding by the Planning Commission that a particular property proposed for development as a cluster development has significant natural features; specifically topography, plant and/or animal habitat, wetlands, the Planning Commission may recommend the strict terms of this section of the Ordinance be waved by the Board of Appeals for the purpose of protecting and preserving the unique and significant natural features of the property.

Section 6.09 - Zoning Map Designation. Upon approval of a Cluster Development pursuant to this Article, the Village Clerk shall indicate the subject property on the Official Zoning Map as a Cluster Development (overlay) District by designating the property "CD" and including the data of the rezoning approval in the record of map amendments.

ARTICLE VII C - COMMERCIAL DISTRICT

Section 7.01 - Intent. The Commercial District is established as a district in which the principal use of land is for mercantile establishments of all types, personal service establishments, eating and drinking establishments, professional and other business offices, offices of governmental institutions (including schools and municipal buildings), churches etc., and all other similar uses that rely upon street/road frontage and site access that accesses with on-site parking.

Section 7.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Retail, personal service and related commercial establishments; retail gasoline sales facilities; restaurants; professional service and other offices; assembly halls of schools, churches and other organizations; financial institutions, including automated teller machines; group homes, including nursing, child and adult foster care facilities not elsewhere regulated; florist and greenhouse commercial businesses; funeral homes; furniture stores; village/township, school and other government buildings; bed & breakfast operations; lodges and other fraternal facilities; labor and social organizations, and accessory uses as regulated hereafter.
- B. Other uses when determined to be similar and compatible with the intent of the zoning district by the Planning Commission.
- C. An essential service as defined by this Ordinance.

Section 7.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XV.

- A. Utility and wireless communication facilities deemed an essential service, or regulated else ware.
- B. Residential living units when incorporated within the second story of the principal building or structure meeting the minimum room size requirements of the Michigan Construction Code.
- C. Motels, hotels and other lodging facilities, except bed and breakfast operations.
- D. Theaters and any other business offering entertainment of any type, except adult entertainment uses limited buy the terms of Section 9.03.
- E. Any festivals and/or events including, fairs, outdoor dances, temporary displays, circuses and other similar activities including the provision of food and beverages for consumption on premises provided such food operations and facilities meet the requirements of the Berrien County Health Department and are conducted by private businesses or not-for-profit organizations on private (or public property with permission granted by the Village Council) designed to be temporary in nature, that being less than fourteen (14) days in duration.
- F. The outdoor display or sale of any good or products, including agricultural produce.
- G. Single family dwelling units.

Section 7.04 - Uses Excluded. No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Planning Commission shall be located or operated in this district.

Section 7.05 - Accessory Buildings and Structures . Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the yard and lot requirements of this district and the provisions of Article XII, Section 12.03.

Section 7.06 - Signs Permitted. Signs permitted in the C - Commercial District shall conform to the provisions of Article XIV.

Section 7.07 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIII.

Section 7.08 - Visual Screening Requirements. Every commercial lot or parcel of land that abuts a lot or parcel of land zoned for residential purposes must provide an adequate visual blockage screen between the commercial and residential lot or parcel of land. This visual blockage shall be no less than six (6) feet in height, in accord with Article XI, Section 11.14.

Section 7.09 - Building Height Regulations. No commercial building or other buildings or structures shall not exceed three (3) stories or exceed thirty-five (35) feet in height.

Section 7.10 - Yard, Setback and Lot Area Requirements. No principal or accessory use building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and width requirements:

- A. **Front Yard:** There shall be a front yard of no less than thirty (30) feet, measured from the edge of the public or private highway or street right-of-way line. Where there are existing buildings or structures having front yards less than thirty (30) feet in depth within two hundred (200) feet on either side of the building proposed to be erected, the Zoning Administrator shall approve a setback equal to the average depth of previously constructed buildings located within two hundred (200) feet on either side of the building proposed to be erected. This front yard shall not contain parking spaces, however parking spaces may occupy other portions of the non-required front yard land area.
- B. **Side Yard:** There shall be a side yard so located that the side yard on each side of the building shall not be less than seven (7) feet in width measured from the side lot line to nearest point on any part of the structure erected thereon, including the overhang of roof eaves.
- C. **Rear Yard:** There shall be a rear yard of no less than seven (7) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.

Accessory Use Rear Yard: There shall be a rear yard for all accessory use buildings and structures including (e.g. garages, play structures, storage sheds, etc.) of no less than eight (8) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.

- D. **Lot Area:** The minimum lot area shall be determined by the uses and the required off-street parking loading and unloading zones, setbacks and other provision of this ordinance.
- C. **Lot Width :** The minimum width shall be determined by the uses and the required off-street parking loading and unloading zones, setbacks and other provision of this ordinance.
- D. **Maximum Lot Coverage of All Buildings and Structures:** The maximum lot coverage shall be determined by the uses and the required off-street parking loading and unloading zones, setbacks and other provision of this ordinance.

**VILLAGE OF EAU CLAIRE
ORDINANCE NUMBER 2019-2**

**AN ORDINANCE TO ADD A NEW SUBSECTION H UNDER THE
VILLAGE ZONING ORDINANCE #2015-1, ARTICLE VII ENTITLED “C-
COMMERCIAL DISTRICT”, SECTION 7.03 ENTITLED “USES
PERMITTED BY SPECIAL USE PERMIT”**

NOW THEREFORE, the Village of Eau Claire ordains:

SECTION 1.

A new Subsection H is hereby added under the Village Zoning Ordinance #2015-1, Article VII entitled “C-Commercial District”, Section 7.03 entitled “Uses Permitted by Special Use Permit,” to read as follows:

- H. A Medical Marihuana Provisioning Center when in compliance with Ordinance 2017-5-Amended 2019-1, entitled “Amended and Restated Medical Marihuana Facilities Ordinance” an ordinance to authorize and permit certain medical marihuana facilities within the Village and to establish regulations and licensing regulations and to implement penalties for violations.

SECTION 2. Prior Ordinances.

All other ordinances or parts of ordinances in conflict with or superseded by this Ordinance are repealed except to the extent that any project, condition, violation or prosecution that was subject to the prior ordinance shall continue.

SECTION 3. Headings.

The headings used in each section of this ordinance are for the purpose of identification and are not a substantive part of this ordinance.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, unlawful or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective Date.

This Ordinance shall take effect twenty (20) days after publication.

SECTION 6. Publication.

The Village Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law.

YEAS: 3

NAYS: 0

ABSENT: 2

Dated: August 19, 2019



John Glassman, Village President

Ordinance declared adopted:



Shawn Foster, Village Clerk

Certification

I hereby certify that the above and foregoing Ordinance was duly adopted by the Village Council of Eau Claire and published in the *Journal Era*, a weekly newspaper published in the Village of Eau Claire, in the issue of said newspaper dated and published on the 28th day of August, 2019.



Shawn Foster, Village Clerk

ARTICLE XIII OFF-STREET PARKING AND LOADING

Section 13.01 - Off-street Parking Required.

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

Section 13.02 - General Requirements.

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

- A. **Off-street Parking Spaces for One and Two-family Dwellings.** Off-street parking facilities required for one- and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve subject to the provisions of Article XII, Sections 12.02 and 12.03 (accessory uses). No parking shall be permitted in the required front yard except on a driveway which leads to an approved parking space.
- B. **Off-street Parking for Multiple-family and Nonresidential Uses.** Off-street parking facilities required for multiple-family and nonresidential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use. Ownership or a use easement, duly recorded with the county registrar of deeds, shall be shown for all land areas intended for use as parking by the applicant.
- C. **Existing Parking Facilities.** An area designated as required off-street parking facilities in existence at the effective date of this ordinance shall not be reduced below the requirements for the use or building served as set forth in this ordinance.
- D. **Joint Use of Facilities.** Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses.
- E. **Non-overlapping Operating Hours.** In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of Article XIII, Section 13.02D.
- F. **Restriction of Parking on Private Property.** It shall be unlawful to park or store any motor vehicle on private property without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.
- G. **Storage and Repair Prohibited.** An unenclosed (defined as a roofed structure having less than three walls to enclose the structure) off-street parking space may not be used for the storage or parking of trailers, mobile homes, travel trailers, boats, boat trailers, junked or wrecked vehicles of any type or used as a storage area for merchandise or industrial equipment or material, or used as a dump for refuse of any description. No repairs or service to vehicles and no shall be carried on or permitted on areas designated as required off-street parking.

- H. **Display of Vehicles for Purpose of Sale In Residential Zoning Districts.** The continuous display of vehicles for purposes of sale of a motor vehicle on all residentially zoned lots shall be allowed for a period of non more than thirty (30) continuous days upon issuance of a Yard Sale Permit by the Village. A maximum of three (3) thirty-day permits shall be issued annually for each zoning lot within the Village.
- I. **Duration.** Except when land is used as permitted storage space in direct connection with a business, a twenty-four (24) hour time limit for parking in nonresidential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district.
- J. **Use of Loading Space.** Required loading spaces shall not be counted or used for required parking.
- K. **Gross and Usable Floor Area.** For the purpose of computing the number of parking spaces required, the definitions under for gross and usable floor area in Article XIII, Section 23.02 shall apply.
- L. **Fractional Requirements.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1½) shall be disregarded and fractions over one-half (1½) shall require one (1) parking space.
- L. **Uses not Specified.** For those uses not specifically mentioned under Article XIII, Section 13.03, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.

Section 13.03 - Table of Off-Street Parking Requirements.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule, unless varied by the Zoning Board of Appeals:

USE	SPACES PER UNITS OF MEASURE
<p>Residential</p> <ul style="list-style-type: none"> a. Residential, one-family and two-family dwelling, including mobile homes b. Residential, multiple- family c. Residential, multiple- family, senior citizen housing d. Boarding, rooming, lodging establishments, and/or tourist homes 	<p>Two (2) for each dwelling unit.</p> <p>One (1) for each efficiency unit, one and one-half (1½) for each one (1) bed- room unit, two (2) for each two (2) bedroom unit, and three (3) for three (3) or more bedroom units.</p> <p>One (1) for each dwelling unit plus one (1) for each employee. If units revert to general occupancy, then Section 13.02 applies.</p> <p>One (1) parking space for each occupancy unit plus one (1) parking space for each employee on the largest employment shift.</p>

Institutional	
a. Churches, temples or synagogues	One (1) for each three (3) seats, based on maximum seating capacity in the main unit of worship.
b. Hospitals	One (1) for each patient bed, plus one (1) additional space for every worker employed during the eight (8) hour shift in which the greatest number of employees are on duty.
c. Foster care group homes, homes for the aged, convalescent homes and children homes	One (1) for each three (3) beds, plus one (1) for each employee on the largest employment shift.
e. Private clubs or lodge halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
f. Fraternity or sorority	One (1) for each five (5) permitted active members, plus one (1) per employee on the largest employment shift.
g. Boat launch, private or public	Twenty-four (24) combined vehicle and boat trailer spaces for each one (1) individual boat ramp.
h. Theaters and auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees on the largest employment shift.
i. Libraries, museums, cultural centers or similar facilities	One (1) for each four hundred (400) square feet of gross floor area.
l. Nursery, day care, or child care centers	One for each three hundred fifty (350) square feet of usable floor space.

<p>Recreational</p> <p><i>For each use below, additional spaces shall also be provided as required for restaurants, bars, club-houses, pro shops, or other affiliated facilities.</i></p> <p>a. Archery facilities</p> <p>b. Softball, baseball fields</p> <p>c. Bowling establishments</p> <p>d. Dance halls, health spas, pool or billiard parlors, skating rinks</p> <p>e. Football and soccer fields</p> <p>f. Golf course, public or private</p> <p>g. Golf course, miniature</p> <p>h. Golf driving range</p> <p>i. Stadium, sports arena, or similar place of outdoor assembly</p> <p>j. Swimming pools</p> <p>k. Tennis clubs and court type recreation uses</p>	<p>One (1) for each two (2) targets.</p> <p>Twenty-five (25) for each playing field.</p> <p>Six (6) for each lane.</p> <p>One (1) for each two (2) persons who may be legally admitted at one (1) time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift.</p> <p>Thirty (30) for each field.</p> <p>Five (5) for each golf hole, plus one (1) for each employee on the largest employment shift.</p> <p>Two (2) for each golf hole, plus one (1) for each employee in the largest employment shift.</p> <p>One (1) for each tee.</p> <p>One (1) for each three (3) seats or six (6) feet of benches, plus one (1) for each employee on the largest employment shift.</p> <p>One (1) for each four (4) persons who may be legally admitted at one (1) time based on occupancy load established by local codes, plus one (1) for each employee on the largest employment shift.</p> <p>One (1) for each one (1) person admitted based on the capacity of the courts, plus (1) for each employee in the largest employment shift.</p>
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<p>Business and Commercial</p> <p>a. Animal hospitals</p> <p>b. Automobile service stations</p> <p>c. Auto wash</p> <p>d. Beauty parlor or barber shop</p> <p>e. Drive-in establishments</p> <p>f. Establishments for sale and consumption on the premises of beverages, food or refreshments</p> <p>g. Furniture and appliance, household equipment, repair shops, show- room of a plumber, decorator, electrician or in similar trade, shoe repair.</p> <p>h.. Ice cream parlors</p> <p>i. Laundromats and coin</p> <p>j. Mortuary establishments</p> <p>h. Motel, hotel or other commercial lodging establishments</p>	<p>One (1) for each four hundred (400) square feet of usable floor area, plus one (1) for each employee in the largest employment shift.</p> <p>Two (2) for each lubrication stall, rack or pit; and one (1) for each employee on the largest employment shift.</p> <p>For quick oil change facilities, one (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to a service station shall be provided as required by Section 12.06.</p> <p>One (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to the auto wash shall be provided as required by Section 12.07.</p> <p>Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1½) spaces for each additional chair.</p> <p>One (1) for each thirty (30) square feet of usable floor area, with a mini- mum of twenty-five (25) parking spaces, plus eight (8) stacking spaces for each drive-in or drive-thru transaction station as required by Section 12.13.</p> <p>One (1) for each fifty (50) square feet of usable floor area.</p> <p>One (1) for each eight hundred (800) square feet of usable floor area, exclusive of the floor area occupied in processing or manufacturing for similar trade, shoe repair, which requirements see industrial and other similar uses establishments below. One (1) additional space shall be provided for each one (1) person employed therein in the largest employment shift.</p> <p>One (1) for each seventy-five (75) square feet of gross floor area, with a minimum of eight (8) spaces.</p> <p>One (1) for each two (2) washing operated dry cleaners machines.</p> <p>One (1) for each fifty (50) square feet of assembly room parlor, and slumber room.</p> <p>One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee on the largest shift, plus extra spaces</p>
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<p>l. Motor vehicle sales and service establishments, trailer sales and rental, boat showrooms</p> <p>m. Open air business</p> <p>n. Restaurant, carry-out</p> <p>o. Roadside stands</p> <p>p. Retail stores, except as otherwise specified herein</p> <p>q. Shopping center or clustered commercial</p>	<p>for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load.</p> <p>One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room, plus one space per employee on the largest employment shift.</p> <p>One (1) for each six hundred (600) square feet of lot area used in open air business.</p> <p>One (1) for each one hundred (100) square feet of gross floor area.</p> <p>Six (6) for each establishment.</p> <p>One (1) for each one hundred and fifty (150) square feet of usable floor area.</p> <p>Five and one-half (5½) spaces per one thousand (1,000) square feet of gross floor area.</p>
<p>Offices</p> <p>a. Banks, savings and loan offices</p> <p>b. Business offices or professional offices, except as indicated in the following item c.</p> <p>c. Medical or dental clinics, professional offices of doctors, dentists, or similar professions</p> <p>d. Offices of local, state or federal government or non-profit agencies.</p>	<p>One (1) for each one hundred (100) square feet of usable floor area, and four (4) stacking spaces for each drive-in or drive-thru transaction station as required by Section 13.05.</p> <p>One (1) for each two hundred (200) square feet of usable floor area.</p> <p>One (1) for each one hundred (100) square feet of usable floor area in or waiting rooms and one (1) for each examining room, dental chair or similar use area.</p> <p>One (1) for each two hundred (200) or square feet of usable floor area.</p>
<p>Industrial</p> <p>a. Industrial or research establishments</p> <p>b. Wholesale or warehouse establishments</p>	<p>Five (5) plus one (1) for every one (1) employee in the largest working shift. Parking spaces on the site shall be provided for all construction workers during the period of plant construction.</p> <p>Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every one thousand seven hundred (1,700) square feet of gross floor area, whichever is greater. Any retail or service area shall be in addition to the above.</p>

Section 13.04 - Off-street Parking for Physically Handicapped Persons.

Off-street parking facilities as required under this ordinance shall include, in accordance with the following table and identified by signs, parking spaces which are reserved for physically handicapped persons. Signs shall be located approximately six (6) feet above grade. Each reserved parking space shall be not less than twelve-feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet shall be provided for wheelchair access. Parking spaces for the physically handicapped shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

Total Parking in Lot	Required Number of Handicapped Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
Over 1,000	20 plus 1 for each 100 over 1,000

Section 13.05 - Off-street Waiting Area and Stacking Spaces for Drive-thru Facilities.

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.
- B. Self-service motor vehicle car wash establishments shall provide four (4) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self service, shall provide stacking spaces equal in number to five (5) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by twenty (20) feet. A drying lane fifty (50) feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.

- C. An off-street waiting space is defined as an area ten (10) feet wide by twenty (20) feet long.

Section 13.06 - Off-street Parking Lot Layout, Construction, and Maintenance.

All off-street parking lots shall be laid out, constructed, and maintained in accordance with the following requirements:

- A. **Review and Approval Requirements.** In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Article XVII. In the event that proposed off-street parking is not part of a development requiring site plan review, the applicant shall submit a parking plan to the Village Planning Commission for review and approval.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate the location of the proposed parking in relation to other uses on the site and on adjoining sites, the proposed means of ingress and egress, the number and dimensions of parking spaces, and the method of surfacing. Existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout shall also be shown.

Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a certificate of occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.

- B. **Layout Requirements.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Patterns	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tires of Spaces Plus Maneuvering Lane
0° (Parallel parking)	12 ft.	8 ft.	23 ft.	20 ft. one way 32 ft. two way	28 ft. one way 40 ft. two way
30° to 53°	12 ft.	8 ft.	20 ft.	32 ft.	52 ft.
54° to 74°	15 ft.	8 ft.	20 ft.	36 ft.	58 ft.
75° to 90°	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.

- C. **Access.** All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.
- D. **Ingress and Egress.** Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a non-residential district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district.
- E. **Surfacing and Drainage.** The entire parking area, including parking spaces and maneuvering lanes, shall have an asphaltic or concrete surface; and shall be graded and drained so as to dispose of surface water which might accumulate on such area. No surface water from such parking area shall be permitted to drain onto adjoining private property or across a public sidewalk. Parking lots shall be continuously maintained with a hard, smooth, dust-proof surface at all times.

- F. **Bumper Stops.** Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.
- In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six-inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.
- G. **Striping.** All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.
- H. **Screening.** All off-street parking areas, except those serving single and two-family residences, shall be screened with a four (4) foot six (6) inch masonry wall in accordance with the provisions set forth in Article XI, Section 11.03.
- I. **Parking Setbacks.** All parking setbacks as required elsewhere by this ordinance shall be maintained.
- J. **Landscaping.** Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped with lawns, deciduous shrubs, evergreen plant material, and ornamental trees, in accordance with Section 11.14. All such landscaping shall be maintained in a health growing condition, neat and orderly in appearance.
- K. **Lighting.** All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded so as not to shine onto any adjacent properties or public right-of-way.
- L. **Signs.** Accessory directional signs shall be permitted in parking areas in accordance to Article XIV, Section 14.07.
- M. **Buildings.** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- N. **Additional Requirements.** In addition to the above requirements, parking areas shall comply with additional requirements or conditions which may be deemed as necessary by the Planning Commission for the protections of abutting properties in a residential district.
- O. **Delay in Construction.** Instances where the Planning Commission determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather.

Section 13.07 - Off-street Loading Space Requirements.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry cleaning establishments, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site.

A Such spaces shall be provided as follows:

Gross Floor Area (in square feet)	Loading and Unloading Spaces*	
	10' x 25' space	10' x 50' space
0-1,999	--	--
2,000-4,999	1	--
5,000-19,999	--	1
20,000-49,999	--	2
50,000-79,999	--	3
80,000-99,999	--	4
100,000-149,999	--	5
150,000 and over	--	5*

* One additional space for each fifty thousand (50,000) square feet of floor area in excess of one hundred fifty thousand (150,000) square feet.

- A. All loading spaces shall be located in the non-required rear yard and meet all minimum yard setback requirements.
- B. Loading space areas shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- C. All loading spaces shall have a minimum of fourteen (14) foot high clearance.
- D. Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.
- E. No loading space shall be located closer than fifty (50) feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six (6) feet in height.
- F. Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
 - 1. Each business served shall have direct access to the central loading area without crossing streets or alleys.
 - 2. Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.
 - 3. No building served shall be more than five hundred (500) feet from the central loading area.

- G. The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

ARTICLE XIV SIGNS

Section 14.01 - Purpose and Intent.

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection.

In addition, it is the intent of this ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the Village.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited and that signs in residential districts be limited to those directly related to activities on the premises.

Billboards are prohibited throughout the Village.

Section 14.02 - Computation of Sign Area.

For the purposes of this ordinance, the total area of a sign shall be expressed in square feet and shall be computed as follows:

- A. **Single-face Sign.** The total area of a single-face sign shall be computed as the number of square feet within any single or combination of geometric shapes-such as a square, rectangle, triangle or circle-encompassing the extreme limits of an individual letter(s), word(s), message(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.
- B. **Double-face Signs.** For double-face signs having two (2) faces of equal size arranged and/or positioned back to back, parallel to each other, with no more than a two-foot space between the two (2) faces; the area of the sign shall be computed as one-half ($\frac{1}{2}$) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.
- C. **Three-dimensional Signs.** For signs which are designed as a three-dimensioned geometric form such as a sphere, cone, cylinder, or cube; the area shall be computed as one-half ($\frac{1}{2}$) the total surface of the geometric form.

Section 14.03 - Permit Required for Signs.

- A. **Sign Erection Permit.** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign unless a permit shall have been first obtained from the building official, except as provided in Article XIV, Section 14.07 (signs exempt from permit requirements). Any sign that makes use of electricity shall, in addition to a sign permit, require an electrical permit, regardless of size.
- B. **Sign Maintenance or Change of Message.** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.

- C. **Planning Commission approval.** All subdivision/development signs, time/date/or temperature signs, or any type of sign not explicitly defined in Article XIV, Section 14.09 of this ordinance must be approved by the Village Planning Commission before a permit shall be issued.
- D. **Sign erector requirements.** Permits for the erection of signs shall only be issued to persons qualified to carry on such work under the provisions of Article XIV, Section 14.04.
- E. **Permit applications.** Applications for sign permits shall be made upon forms provided by the Zoning Administrator for this purpose and shall contain the following information:
 - 1. Name, address and phone number of applicant.
 - 2. Location of the building, structure, or lot on which the sign is to be attached or erected
 - 3. Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
 - 4. Position of the sign in relation to nearby buildings, structures, signs, property lines, and rights-of-way, existing or proposed.
 - 5. Zoning district in which the sign is to be located.
 - 6. Two (2) copies of the sign plans and specifications for method of construction and attachment to the building or in the ground. The sign plans shall include all pertinent data including highest point, low point clearance, face outline and total face area with method of calculation. When public safety so requires the specifications shall include the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
 - 7. Name and address of the sign erector.
 - 8. Insurance policy as required herein (see Section 14.04) and/or a performance bond as required.
 - 9. Such other information as the Zoning Administrator may require to show full compliance with this and all other applicable laws of the Village and the State of Michigan.
- F. **Sign Erection Permit Expiration.** A sign permit shall become null and void if the work for which the permit was issued is not completed within ninety (90) days of the date of issue.

Section 14.04 - Sign Erector Requirements.

- A. **Insurance Certificates.** Before a sign permit is issued, the installing company shall submit for filing with the Village a valid certificate of insurance, for public liability in the amount of one hundred thousand dollars (\$100,000.00) for injuries to one (1) person and three hundred thousand dollars (\$300,000.00) for injury to more than one (1) person, and property damage insurance in the amount of twenty-five thousand dollars (\$25,000.00) for damage to any property due to the actions of himself or any of his agents or employees. Said certificate shall provide for notification of the Zoning Administrator ten (10) days prior to expiration of insurance.
- B. **Lapsing of Insurance.** If at any time, the insurance of any sign erector is permitted to lapse, his right to obtain permits shall automatically be revoked.

- C. **Notification of Change.** A sign erector shall notify the building official of any change in address, and if a firm or corporation, any change in ownership or management if other than that indicated on the insurance certificates.

Section 14.05 - Certificate of Compliance.

- A. **Compliance Certification.** All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this article, shall be issued a certificate of compliance. The building official shall cause existing signs to be inspected if deemed necessary by him to determine continuation of compliance with the provisions of this article.
- B. **Responsibility of Compliance.** The owner of any property on which a sign is placed and the person maintaining said sign are declared to be equally responsible for the erection, safety and condition of the sign and the area in the vicinity thereof subject to provisions of this Ordinance.

Section 14.06 - General Sign Provisions.

- A. **Public Rights-of-Way.** No sign (or any pole or support cable of any nature) except those established and maintained by the Village, county, state, or federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this ordinance.
- B. **Sign Heights.** The highest point of any sign shall not exceed eighteen (18) feet above the ground or grade level. All signs which project over a public or private road or walkway, such as street signs, directional signs, or a sign on a canopy, shall have under clearance from the lowest point of the sign to the ground or grade level of not less than eight (8) feet.
- C. **Traffic Interference.** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
- D. **Clear Corner Vision.** No sign above a height of thirty (30) inches shall be located within, project into, or overhang the triangular area formed at the intersection of any two (2) street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection, unless visual under clearance can be assured on the plans.
- E. **Proximity to Electrical Conductors.** No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.
- F. **Illumination.** No sign shall be illuminated by other than approved devices, and in no case shall any open spark or flame be used for display purposes unless specifically approved by the Village Council. All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall light from an illuminated sign shine on adjacent property which is used for residential purposes.
- G. **Fire Escapes.** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.
- H. **Wall Signs.** No wall sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than one (1) foot, and shall not project above or beyond the highest point of the roof or parapet.

- I. **Freestanding Signs.** With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
- J. **Liability Insurance.** If the vertical distance of a sign above the street is greater than the horizontal distance from the sign to the street right-of-way line and is so located as to be able to fall or be pushed onto or impacts public property in any manner, then the owner of such sign shall keep in force a public liability insurance policy in the amount of one hundred thousand dollars (\$100,000.00) for injury to one (1) person and three hundred thousand dollars (\$300,000.00) for injury to more than one (1) person and property damage insurance in the amount of twenty-five thousand dollars (\$25,000.00) for damage to property. In lieu of an insurance policy as required herein, an owner may present satisfactory proof to the Village Attorney that said owner is financially capable of self-insurance in the above amounts.

Section 14.07 - Signs Exempt from Permit Requirements.

No sign permit is required for signs listed below. Such exemptions, however, shall not be construed to relieve the owner for its proper location, erection, and maintenance.

- A. **Government Signs.** Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, or regulatory signs.
- B. **Flags, Pennants or Insignia** of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- C. **Address Signs.** Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- D. **Street Signs.** Signs erected by the Village, county, state, or federal government for street names, traffic control, or direction and information.
- E. **Private Traffic Signs.** Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and bear no advertising matter.
- F. **Handicapped Signs.** Not exceeding four (4) square feet each and bearing no advertising matter.
- G. **Architectural Features / Artwork.** Integral decorative or architectural features of buildings or works of art, so long as such features or works so not contain letters, trademarks, moving parts, or lights.
- H. **Small Accessory Signs.** Any accessory sign erected on a premise which is no more than two (2) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals. The total area of all small accessory signs on one premise shall not exceed eight (8) square feet, except in residential districts in which the total area of all small accessory signs on one premise shall not exceed six (6) square feet.
- I. **Temporary Signs, Banners, Flags.** Temporary signs, not specifically regulated in any other section of this ordinance, including but not limited to: political signs, real estate signs, signs for special events or activities, banners, flags, and the like shall be permitted subject to the following conditions:
 1. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any public sidewalk or street right-of-way.

2. All temporary signs must be removed within thirty (30) days of the conclusion of the event, activity, election, sale, etc. for which the temporary sign is displayed.
3. The total area and height of temporary signage shall not exceed the following standards:
 - a. In residential districts, temporary signage shall be limited to twelve (12) square feet in area and six (6) feet in height.
 - b. In the commercial and industrial districts, temporary signage shall not exceed thirty-two (32) square feet of total sign area per side or a height of eight (8) feet.

Section 14.08 - Signs Prohibited Throughout the Village.

The following signs are prohibited throughout the Village, notwithstanding anything to the contrary in this article.

- A. **Moving Signs.** Signs that revolve or are animated or that utilize movement or apparent movement to attract attention. No sign shall have blinking, flashing, or fluttering lights or other illuminated devices such as a changing light intensity, brightness or color. No site shall utilize moving patterns of light so as to convey an illusion of motion or animation. Electronic message boards or changeable copy signs in which the copy consists of an array of light, are permitted, provided that the frequency of message change is not less than five (5) seconds. All lights in a display shall activate simultaneously, remain activated for not less than five (5) seconds, and deactivate simultaneously. Beacon lights and search lights are not permitted.
- B. **Flashing Signs.** Signs which are illuminated by or in any manner incorporates lights which flash, twinkle, move, or give the appearance of movements.
- C. **Banners, Streamers.** Exterior banners, pennants, spinners, other than a banner or pennant used as a permitted sign under provisions of this article.
- D. **String Lights.** Exterior string lights used in connection with a commercial premises are only permitted under the following conditions:
 1. String lighting displayed during construction periods; and
 2. String lighting displayed for up to six (6) months on a site to provide security lighting until permanent lighting is approved and installed.

The provisions in this section are not intended to interfere in any way with string lighting associated with temporary holiday displays.
- E. **Unsafe Signs.** Any sign which is structurally or electrically unsafe.
- F. **Utility Poles and Landscaping.** Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by the Village, county, state, or federal government or a public transit agency.
- G. **Business no Longer Existing.** Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within thirty (30) days after such abandonment, be

removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

- H. **Non-anchored Signs.** Portable signs and freestanding signs not permanently anchored or secured to either a building or the ground, except real estate "open house" signs.
- I. **Signs on Vehicles.** Signs displayed on any vehicle or trailer when the subject vehicle or trailer is parked in such a manner that the obvious intent is to attract attention to a business, service, or commodity on the premises.
- J. **Sign Structure without Sign.** Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within thirty (30) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to prevent the changing of the message of a sign.
- K. **Roof-mounted Signs.**
- L. **Appendage Signs.** (See definition in Article XXIII).
- M. **Billboards.** (See definition in Article XXIII).
- N. **Other Signs Prohibited.** Other signs not expressly permitted shall be prohibited.

Section 14.09 - District Regulations.

A. Signs Permitted in the R- Residential District.

- 1. For each dwelling unit, one (1) address sign in compliance with Article XIV, Section 14.07C of this zoning ordinance.
- 2. Small accessory signs no more than two (2) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals. The total area of all small accessory signs on one (1) premise shall not exceed six (6) square feet.
- 3. One (1) subdivision entrance sign per vehicle entrance may be permitted on private property in compliance with the corner clearance provisions (Section 14.06D) and shall not exceed twenty (20) square feet in area or a height of six (6) feet above grade. The location and appearance of all subdivision/condominium signs shall be subject to review and approval by the Planning Commission at the time of site plan review, provided that such signs shall be located no closer than twelve (12) feet from any property line and one hundred (100) feet from any adjacent single-family district. Adequate provisions shall also be made at the time of site plan review to insure continued maintenance of the sign.
- 4. No more than one (1) freestanding and one (1) wall institutional sign for schools, churches, libraries, or similar institutions having an area of no more than thirty-two (32) square feet, having a height of no more than six (6) feet above the established grade, and located no closer than twelve (12) feet from any property line.
- 5. One (1) sign to advertise a home occupation. Such signs shall not exceed six (6) square feet in area.

B. Signs Permitted in the MF - Multi-family Residential District.

1. Signs as permitted in Article XIV, Section 14.09A above, except that up to eight (8) square feet of total small accessory signs may be erected.
2. Signs identifying community facilities or special uses within said developments. Such signs shall not exceed a total of twenty (20) square feet in area, or a height of six (6) feet above grade, for each building or use and no such sign shall be located closer than thirty (30) feet to any property line of an adjacent single-family district.
3. Private traffic signs and handicapped signs in compliance with Article XIV, Sections 14.07E and 14.07F.

C. Signs Permitted in CBD - Central Business District.

1. On the street side of a premises, one (1) wall sign shall be permitted, the total area of which shall not exceed one (1) square foot for each one (1) linear foot of frontage of the principle building(s), provided that the total sign area shall not exceed thirty (30) square feet. Where a principle building has frontage along two (2) or more streets, one (1) additional sign not exceeding one (1) square foot along each one (1) linear foot of building frontage along the second or more streets shall be permitted, provided that the total sign area along each additional frontage shall not exceed thirty (30) square feet.
2. Provided that total sign area does not exceed one (1) square foot for each one (1) linear foot of building frontage (refer to paragraph 1. above), one (1) freestanding sign may be allowed per premises. Such sign shall not exceed twelve (12) feet in height and thirty (30) square feet in area. Freestanding signs shall not be located on the rear or parking lot side of a premises.
3. In addition to the signs allowed in paragraphs 1, and 2, above, wall sign(s) may be erected on the rear or parking lot side of a premises not exceeding one-half (½) square foot for each linear foot of the rear length of the principle building(s), provided that the total sign area shall not exceed twenty-four (24) square feet in area. Such signs shall be erected not less than four (4) feet nor more than twelve (12) feet above the established grade.
4. **Interior signs.** For each premises, an additional area of interior signs not to exceed fifty (50) percent of the area of any window shall be permitted, provided no one (1) sign shall exceed twenty (20) square feet in area. The area of interior signs shall be computed in the manner provided for all signs under Article XIV, Section 14.02.
5. In the CBD district only, signs may be located over a public right-of-way if painted or inscribed on a canopy (see Article XXIII for definition of "canopy"). Such signs shall not project over a roadway, and shall have a minimum under-clearance of eight (8) feet from the lowest point of the sign to the ground or grade level.
6. Theaters, except for adult-regulated uses, shall be permitted one hundred (100) square feet of sign area in addition to the district provisions of this article for changeable message type marquee signs.

E. Signs Permitted in C - Commercial District.

1. On all street sides of a premises, wall signs shall be permitted, the total area of which shall not exceed thirty (30) percent of the building face. Individual signs shall not exceed thirty (30) square feet.
2. Provided that total sign area does not exceed one (1) square foot for each one (1) linear foot of building frontage (refer to paragraph 1, above), one (1) freestanding sign may be allowed per premises. Such sign shall not exceed eighteen (18) feet in height and fifty (50) square feet in area,

3. In addition to the signs allowed in paragraphs 1, and 2, above, wall sign(s) may be erected on the rear or parking lot side of a premises not exceeding one-half (½) square foot for each linear foot of the rear length of the principle building(s), provided that the total sign area shall not exceed thirty (30) square feet.
4. **Interior Signs.** For each premises, an additional area of interior signs not to exceed fifty (50) percent of the area of any window shall be permitted, provided that no one (1) sign shall exceed twenty (20) square feet in area. The area of interior signs shall be computed in the manner provided for all signs under Article XIV, Section 14.02.
5. **Gasoline Service Stations.** Stations shall be permitted signs on each pump island indicating the prices and types of gasoline and the type of service. The aggregate area of such signs shall not exceed twenty (20) square feet per pump island. In no event shall the total area of all such signs exceed one hundred twenty (120) square feet.
6. **Theaters, Except for Adult-Regulated Uses,** shall be permitted one hundred (100) square feet of sign area in addition to the district provisions of this article for changeable- message type marquee signs.

F. **Signs permitted in I - Industrial District.**

1. One (1) wall sign may be erected per building face up to three hundred (300) square feet in area.
2. One (1) freestanding sign may be erected provided said sign does not exceed one hundred fifty (150) square feet of display area per side. Such sign shall have a height of no more than twenty-four (24) feet above the established grade and be erected no closer than twenty (20) feet from any property line.

G. **Signs in the Cluster Development and Planned Unit Development Districts.** In the Cluster Development and Planned Unit Development overlay districts, signs shall be regulated according to the provisions of the original zoning district classification or most nearly appropriate to the uses proposed within the Cluster Development or Planned Unit Development as deemed appropriate by the Planning Commission.

Section 14.10 - Construction and Maintenance Requirements.

- A.. **Materials and Design.** All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads, and stresses of the latest adopted edition of the Village building code and requirements of this article.
- B. **Erector's Imprint.** Signs which require a permit under this article must carry the identification and address of the sign erector, electrical voltage (when applicable), and date of erection in clearly legible letters whether for the initial erection or re-hanging of a sign. In case of re-hanging or re-erection of any sign, the new erector must place his identification, address and the date on the sign.
- C. **Fastenings.** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall. be repaired by the erector.
- D. **Freestanding Signs.** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property.

- E. **Sanitation/landscaping.** Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.
- F. **Maintenance.** All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within ten (10) days of written notification of the building official.

Section 14.11 - Nonconforming Signs.

- A. **Intent.** It is the intent of this article to encourage eventual elimination of signs that as a result of the adoption of this article become nonconforming, to administer this article to realize the removal of illegal nonconforming signs, and to avoid any unreasonable invasion of established private property rights.
- B. **Lawful Existing Signs.** Any sign lawfully existing at the time of this article which does not fully comply with all provisions shall be considered a legal nonconforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.
- C. **Continuance.** A nonconforming sign shall not:
 - 1. Be expanded or changed to another nonconforming sign.
 - 2. Be relocated.
 - 3. Be structurally reconstructed so as to prolong the life of the sign; or so as to change the shape, size, type, placement, or design of the sign's structural parts; or so as to add illumination.
 - 4. Be repaired or re-erected after being damaged if the repair or re-erection of the sign, within any twelve-month period, would cost more than fifty (50) percent of the cost of an identical new sign. If deemed necessary by the building official, the cost of an identical new sign shall be determined as the average of no less than three (3) cost estimates obtained from three (3) contractors.
 - 5. Be altered unless the alteration or reconstruction be in compliance with the provisions of this article. For the purpose of this article only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area; landscaping below the base line; or changing electrical wiring or devices, backgrounds, letters, figures, or characters.
- D. **Termination of Business.** Nonconforming signs and sign structures shall be removed or made to conform within thirty (30) days of the termination of the business or use to which they are accessory.
- E. **Change of Property.** If the owner of a sign or the premises on which a sign is located changes the location of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this article.
- F. **Portable and Temporary Signs.** Portable and temporary signs that are nonconforming shall be altered to comply with the provisions of this article or removed within thirty (30) days after the effective date of this article.

- G. **Administration.** The building official shall make every reasonable effort to identify all the nonconforming signs within the Village . Persons responsible for each sign (as well as the owner of the property where the nonconforming sign is located) shall be contacted and informed as to which sign is nonconforming and how it is nonconforming.

Sign Type and Area Requirements by Zoning District

Zoning District	Wall Sign	Freestanding Sign	Billboards	Special Provisions
R- Residential	One (1) institutional sign for churches, schools, etc. Up to thirty- two (32) sq. ft. in area.	One (1) institutional sign for churches, schools, etc. Up to thirty- two (32) sq. ft in area and up to six (6) feet in height.	Not permitted.	See text for details about: Small accessory, address signs and subdivision entrance signs.
RM- Multiple-Family Residential	Same as R - Residential.	Same as R - Residential.	Not permitted.	See text for community facility sign requirements
CBD Central Business	One (1) wall sign on walls with street frontage up to thirty (30) sq. ft. One (1) wall sign at rear or parking lot side of a building up to twenty-four (24) sq. ft.	One (1) per business up to thirty (30) square feet in area and twelve (12) feet in height.	Not permitted.	See text for details about: Window signs, canopy signs and theater signs.
C- Commercial	Sign on walls with street frontage up to thirty (30) sq. ft. each. Total wall signage per business face up to thirty (30) percent of wall area.. One (1) sign on wall at rear or parking lot side of a building up to thirty (30) sq. ft.	One (1) per business up to fifty (50) square feet in area and eighteen (18) feet in height.	Permitted subject to State of Michigan standards on freeways and expressways only.	See text for requirements for:: Gasoline service station, window signs, and theaters

Zoning District	Wall Sign	Freestanding Sign	Billboards	Special Provisions
I - Industrial	One (1) sign per face up to three hundred (300) sq. ft. in area	One (1) sign up to one hundred fifty (150) sq. ft.	Permitted subject to State of Michigan standards along expressways and freeways only	See text for deb about group identification signs.

ARTICLE VIII CBD - CENTRAL BUSINESS DISTRICT

Section 8.01 - Intent. The Central Business District established is as a district in which the principal use of land is for mercantile establishments of all types, personal service establishments, eating and drinking establishments, professional and other business offices, offices of governmental institutions (including schools and municipal buildings), churches, etc., including residential living units not located on the ground floor (except as provided as a special use) where such businesses are not required to provide front or side yards nor are required to provide on-site parking, the latter being provided by public parking either on-street or within Village owned off-street parking facilities. It is Village policy to encourage all existing and new development to adhere with the historical character of the architecture in the Central Business District and improvements to existing buildings and construction of new building in the District are subject to an architectural review process by the Planning Commission and Downtown Development Authority.

Section 8.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Retail, personal service and related commercial establishments; restaurants; professional service and other offices; assembly halls of schools, churches and other organizations; financial institutions, including automated teller machines; group homes, including nursing, child and adult foster care facilities not elsewhere regulated; florist and greenhouse commercial businesses; funeral homes; furniture stores; village/township, school and other government buildings; bed & breakfast operations; lodges, fraternal, labor and social organizations, and accessory uses as regulated hereafter.
- B. Product assembly and repair operations where goods are processed in the rear of a retail store sales area fronting on the street frontage, when such operation, in the opinion of the Planning Commission do not interfere with the peaceful enjoyment of the business located in the adjoining buildings.
- C. Second (and above) story dwelling units meeting the minimum room size requirements of the Michigan Construction Code.
- D. Other uses when determined to be similar and compatible with the intent of the zoning district by the Planning Commission.
- C. Utility and wireless communication facilities deemed an essential service, or regulated elsewhere.

Section 8.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XV.

- A. Utility transmission facilities not deemed an essential service.
- B. Ground floor residential living units when incorporated within the ground floor of the principal building or structure meeting the minimum room size requirements of the Michigan Construction Code and when such units are located in such fashion to allow the front (street frontage) portion of the building to be used for the intended purposes of this district.
- C. Motels, hotels and other lodging facilities, excluding bed and breakfast operations.
- D. Theaters and any other business offering entertainment of any type, except adult entertainment uses limited by the terms of Section 9.03.

- E. Any festivals and/or events including, fairs, outdoor dances, temporary displays, circuses and other similar activities including the provision of food and beverages for consumption on premises provided such food operations and facilities meet the requirements of the Berrien County Health Department and are conducted by private businesses or not-for-profit organizations on private (or public property with permission granted by the Village Council) designed to be temporary in nature, that being less than fourteen (14) days in duration.
- F. The outdoor display or sale of any good or products, including agricultural produce.

Section 8.04 - Uses Excluded. No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Planning Commission shall be located or operated in this district.

Section 8.05 - Accessory Buildings and Structures . Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the yard and lot requirements of this district.

Section 8.06 - Site and Facade Plan Required. Prior to the issuance of a building permit in the C - Central Business District for any new construction or for the remodeling of any existing building or structure that will involve the exterior facade or other exterior surface in any way, the Zoning Administrator shall cause the application including a site and a facade plan prepared pursuant to the provisions of Article XVII determination with compliance with the published design and color standards or guidelines for the Central Business District, or Appearance Plan and Appearance Standards or Guidelines. The Planning Commission shall notify the applicant concerning any features and colors inconsistent with the approved standards. Any proposed new construction or remodeling of any existing buildings found to be inconsistent with the standards or guidelines for the district by the Planning Commission shall be disqualified for any incentive offered by the Village or Downtown Development Authority (if formed by the Village Council)..

Section 8.07 - Signs Permitted. Signs permitted in the C - Central Business District shall conform to the provisions of Article XIV.

Section 8.08 - Parking Requirements. There are no off-street parking requirements for this district.

Section 8.09 - Building Height Regulations. No commercial building or other buildings or structure shall exceed two and one-half (2½) stories or exceed thirty-five (35) feet in height.

Section 8.10 - Yard, Setback and Lot Area Requirements. No principal or accessory use building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and width requirements:

- A. **Front Yard:** There is no minimum front yard requirement. It is the intent of this district to require the front building line to be located on the front property line, except as provided in the following paragraph.

Where there are existing buildings or structures having a front yard setback within two hundred (200) feet on either side of the building proposed to be erected, the Zoning Administrator shall require a setback equal to the average depth of previously constructed buildings located within two hundred (200) feet on either side of the building proposed to be erected.
- B. **Side Yard:** There is no side yard requirement. Where there are buildings or structures having a side yard setback on a lot abutting the lot in which a building is proposed to be constructed or remodeled, the Zoning Administrator shall require a setback equal to setback of the building located on the abutting lot with the setback measured from the side lot line to nearest point on any part of the structure erected thereon, including overhang of roof eaves. The Board of Appeals may wave these requirements upon finding that such setback would be less than five (5) feet.

- C. Rear Yard: There shall be a rear yard of no less than seven (7) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.

Accessory Use Rear Yard: There shall be a rear yard for all accessory use buildings and structures including (e.g. garages, play structures, storage sheds, etc.) of no less than eight (8) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.

- D. Lot Area: There is no minimum lot size requirement in this district.

- C. Lot Width: The minimum width shall be sixty (60) feet.

- D. Maximum Lot Coverage of All Buildings and Structures: The maximum lot coverage shall not exceed seventy-five (75) percent.

**ARTICLE IX
I - INDUSTRIAL DISTRICT**

Section 9.01 - Intent. The intent of the I - Industrial District is to provide locations for industrial development, including development within planned industrial park subdivisions and on independent parcels. It is intended that permitted activities or operations produce no external impacts that are detrimental in any way to other uses in the district or properties in adjoining districts. Permitted uses should be compatible with surrounding residential or commercial uses.

Section 9.02 - Uses Permitted by Right.

In the I - Industrial District, no uses shall be permitted except the following:

- A. Any use charged with the principal function of basic research, design, and pilot or experimental project development when conducted within a completely enclosed building. The growing of any vegetation requisite to the conducting of basic research shall be excluded from the requirement of enclosure.
- B. Warehousing and wholesale establishments and trucking facilities
- C. The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: Bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge, and machining shops.
- D. The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials such as, but not limited to: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semi-precious metals or stone, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.
- E. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
- F. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
- G. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios, phonographs and television.
- H. Laboratories including research, experimental, film, and/or testing.
- I. Manufacturing and repair of electric signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
- J. Storage facilities for building materials, sand, gravel, stone, lumber and outdoor storage of contractors' equipment and supplies.
- K. Grain elevators.
- L. Central dry cleaning plants or laundries.
- M. Automotive repair garages, auto engine and body repair, and undercoating shops when all operations take place within a completely enclosed building.
- N. Mini-warehouses and self-storage facilities.

- O. Accessory off-street parking and buildings and uses customarily incidental to the above permitted uses.
- P. Other uses when determined to be similar and compatible with the intent of the zoning district by the Planning Commission.
- Q. An essential service as defined by this Ordinance.

Section 9.03 - Uses Permitted by Special Use Permit.

The following uses may be permitted by the Planning Commission subject to the conditions specified for each use; the imposition of special conditions which, in the opinion of the Planning Commission are necessary to fulfill the purposes of this ordinance; and procedures set forth in Article XV.

- A. Adult book or supply stores, adult motion picture theaters, adult live stage performing theaters, adult motion picture theaters, group "A" cabarets, and massage parlors or massage establishments, subject to the provision of Article XII, Section 12.04.
- B. Retail uses which have an industrial character in terms of either their activities or outdoor storage requirements such as, but not limited to: lumber yards, building materials outlets, upholsterers, and cabinet makers, and agricultural or construction equipment sales, rental, or repair.
- C. Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the I - Industrial District.
- D. Metal plating, buffing, stamping and polishing.
- E. Radio, telephone and television towers and their attendant facilities, provided said use shall be located centrally on a parcel having a dimension of not less than a distance equal to the height of the tower as measured from the base of said tower to all points on each property line. An open weave, six-foot high chain link fence shall be constructed around the entire perimeter of the site.
- F. Recycling yard (junk yards), subject to the provisions in Article XII, Section 12.15.
- G. Incineration of garbage or refuse when conducted within a state approved and enclosed incinerator plant and located in the interior of the district so that no property line shall form the exterior boundary of the I - Industrial District.

Section 9.04 - Development Standards.

Except as otherwise noted for specific uses, all buildings and uses in the I - Industrial District shall comply with the following required conditions:

- A. All manufacturing, compounding, assembling, processing, packaging, or other industrial or business activity shall comply with the performance standards set forth in Article XI, Section 11.27.
- B. All manufacturing, compounding, assembling, processing, packaging, or other industrial or business activity shall be conducted within a completely enclosed building, except as otherwise specified.
- C. All machinery shall comply with the standards in Article XI, Section 11.27.
- D. No building shall be located nearer than one hundred (100) feet to the boundaries of any residence district classification.

- E. All land of any individual site in use in this district, not occupied by buildings, structures, improved parking areas, or storage areas, shall be maintained in a neat and attractive manner.
- F. Outdoor storage areas shall be limited to a cumulative area not to exceed twenty (20) percent of the square foot area of the principal building located upon the premises and must be screened from adjoining premises and from public streets by a solid fence, wall, or natural screening for this purpose. No material shall be stored above the height of the screening. Storage areas shall conform to the setback requirements for buildings in the I - Industrial District. Proper access to all parts of the storage areas shall be provided for fire and emergency services.
- H. No use shall be allowed which will emanate noise, smoke, odor, dust, dirt, noxious gases, glare, heat, vibration, or psychological ill effects to such an extent as will be a nuisance or annoyance to owners or occupants of surrounding premises.

Section 9.05 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the yard and lot requirements of this district pursuant to the provisions of Article XII, Section 12.03..

Section 9.06 - Signs Permitted. Signs permitted in the I - Industrial District shall conform to the provisions of Article XII.

Section 9.07 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIII.

Section 9.08 - Building Height Regulations. No building or structure shall exceed three (3) stories or exceed thirty-five (35) feet in height. The Board of Appeals may waive this height requirement for industrial uses requiring greater height when such space is designed primarily to house equipment and not occupied for production purposes.

Section 9.09 - Yard, Setback and Lot Area Requirements. No principal or accessory use building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and width requirements:

- A. **Front Yard:** There shall be a front yard of no less than fifteen (15) feet, measured from the edge of the public or private highway or street right-of-way line. Where there are existing buildings or structures having front yards less than fifteen (15) feet in depth within two hundred (200) feet on either side of the building proposed to be erected, the Zoning Administrator shall approve a setback equal to the average depth of previously constructed buildings located within two hundred (200) feet on either side of the building proposed to be erected. This front yard shall not contain parking spaces, however parking spaces may occupy other portions of the non-required front yard land area.
- B. **Side Yard:** No side yard is required except along an abutting residential zoned property for which a seven (7) foot side yard shall be required measured from the side lot line to nearest point on any part of the structure erected thereon, including overhang of roof eaves.
- C. **Rear Yard:** There shall be a rear yard of no less than fifteen (15) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.
 - Accessory Use Rear Yard:** There shall be a rear yard for all accessory use buildings and structures including (e.g., garages, play structures, storage sheds, etc.) of no less than eight (8) feet, unless altered due to practical difficulties related to the size or configuration of the zoning lot as determined by the Board of Appeals.
- D. **Lot Area:** The minimum lot area shall be determined by the uses and the required off-street parking loading and unloading zones, setbacks and other provision of this ordinance.

- E. Lot Width : The minimum width shall be determined by the uses and the required off-street parking loading and unloading zones, setbacks and other provision of this ordinance.
- F. Maximum Lot Coverage of All Buildings and Structures: The maximum lot coverage shall be determined by the uses and the required off-street parking loading and unloading zones, setbacks and other provision of this ordinance.

9.10 - Industrial Minimum Landscaping Regulations and Standards.

In the I - Industrial Zoning District, a minimum of fifteen (15) percent of the total lot area shall be landscaped containing one (1) shrub for every 1,000 square feet or portion thereof, plus one (1) tree for every 1,500 square feet of landscaped area or portion thereof. (Plant materials existing on the site prior to the development may be included as part of the requirement) Ground cover is required in all landscaped areas. Landscaping of adjacent rights-of-way area shall be included in satisfying the minimum on-site requirement if it is maintained by the abutting property owner. A minimum of thirty-three (33) percent of required landscape area shall be located between any building and the street.

04.28.17

VILLAGE OF EAU CLAIRE
ORDINANCE NUMBER 2017-2

AN ORDINANCE TO ADD A NEW SUBSECTION H UNDER THE VILLAGE ZONING ORDINANCE NO. 2015-1, ARTICLE IX ENTITLED "INDUSTRIAL DISTRICT", SECTION 9.03 ENTITLED "USES PERMITTED BY SPECIAL USE PERMIT"

NOW THEREFORE, The Village of Eau Claire ordains:

SECTION 1.

A new Subsection H is hereby added under the Village Zoning Ordinance No. 2015-1, Article IX entitled "Industrial District", Section 9.03 entitled "Uses Permitted by Special Use Permit," to read as follows:

- H. A Medical Marijuana Growing Operation when in compliance with Ordinance No. 2017-4, of the Village of Eau Claire Ordinances, entitled "Medical Marijuana Growing Operation Businesses".

SECTION 2. Prior Ordinances.

All other ordinances or parts of ordinances in conflict with or superseded by this Ordinance are repealed except to the extent that any project, condition, violation or prosecution that was subject to the prior ordinance shall continue.

SECTION 3. Headings.

The headings used in each section of this ordinance are for the purpose of identification and are not a substantive part of this ordinance.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, unlawful or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective Date.

This Ordinance shall take effect twenty (20) days after publication.

SECTION 6. Publication.

The Village Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law.

YEAS: 3

NAYS: 0

ABSENT: 2

Dated: MAY 4, 2017

Virginia Gonzalez
Virginia Gonzalez, Village President

Ordinance declared adopted:

Shawn Foster
Shawn Foster, Village Clerk

Certification

I hereby certify that the above and foregoing Ordinance was duly adopted by the Village Council of Eau Claire and published in the *Journal Era*, a weekly newspaper published in the Village of Eau Claire, in the issue of said newspaper dated and published on the 10 day of MAY, 2017.

Shawn Foster
Shawn Foster, Village Clerk

ARTICLE X PUD - PLANNED UNIT DEVELOPMENT DISTRICT

Section 10.01 - Purpose of Planned Unit (overlay) Development The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one (1) principal building on one (1) lot. These requirements would in certain developments have results that would less serve the public health, safety, and welfare than if a controlled degree of flexibility were allowed. A development may be of such size as to justify permitting certain specifically defined departures from the regulations of the zoning district. Permitting these uses can in certain cases increase convenience, be comparable with the overall character of the district, and not be injurious to the adjoining properties, subject to limitations of the zoning district in which the property is currently located.

Section 10.02 - Intent. A Planned Unit Development is intended to encourage the following:

- A. Preserves open space and other sensitive lands through uses of creative design that takes advantage of special features including geography, vegetive cover, topography, site size or shape for their best potential, and
- B. Incorporates a variety of land uses including residential, commercial and industrial purposes plus their accessory uses allowing a creative approach in the development of a specific site to meet anticipated residential, commercial and industrial demand.

Section 10.03 - Applicability to 2 Acre Sites - Land Division and Condominium Plats Any plat of subdivision submitted for recording under the terms of the State of Michigan Land Division Act, P.A. 87 of 1997, as amended (formally Subdivision Control Act) or any plan of subdivision the Condominium Act. P.A. 58 of 1978, as amended consisting of two (2) or more acres of land area, shall be submitted and processed as a Planned Unit Development, pursuant to the terms of this Article and other applicable sections of this Ordinance.

Section 10.04 - Procedures for Submission of PUD Plans. These procedures are intended to state the requirements at each stage of the review process. However, each applicant shall have the opportunity to submit an application for approval of a Planned Unit Development at either the Preliminary PUD Development Plan stage or the Final PUD Development Plan stage, if the application and other submission documents have been prepared according to the terms of this Ordinance.

Section 10.05 - Pre-Application Conference. Before submitting an application for a Planned Unit Development, an applicant at his option may confer with the Village Planning Commission to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, etc.

Section 10.06 - Contents and Submission of a Preliminary PUD Development Plan. Proceedings are commenced by application for approval of a Planned Unit Development, to the Village Planning Commission with a Preliminary PUD Development Plan prepared in accord with the following specifications:

A Preliminary PUD Development Plan should include maps and/or diagrams showing enough of the area surrounding the proposed Planned Unit Development to demonstrate the relationship of the Planned Unit Development to adjoining uses and sufficient information to explain the nature of the proposed development and the relationship of the development to the existing supply of public utilities. The maps and/or diagrams which are part of the Preliminary Planned Unit Development may be in general schematic form but must contain, at minimum, the following information:

1. The existing topographic character of the land with contours shown at intervals of not greater than ten (10) foot intervals;
2. Existing and proposed land uses and the approximate location of buildings and other accessory structures;
3. The character, type, and number of dwelling units or other principal and accessory buildings proposed (if buildings will contain commercial and/or industrial uses);

4. The approximate location of streets including their ingress/egress ways and provision for parking vehicles;
5. The locations of all public uses, including schools, parks, playgrounds, common open spaces, walkways/trailways, etc.;
6. The approximate location and sizing of existing and proposed utility systems;
7. Any land area intended to remain in open space and means of permanent preservation, and
8. Such other information, maps and plans as the Planning Commission may request.

Section 10.07 - Approval of Preliminary PUD Development Plan. Procedures for the approval of a Preliminary PUD Development Plan are as follows:

- A. **Public Hearing for Rezoning to PUD Zoning District.** Upon submission of a complete application for approval of a Preliminary PUD Development Plan, the Planning Commission shall, conduct a with public notice provided as required for rezoning pursuant to Article XXI, Section 21.02.
- B. **Approval of Rezoning to PUD Zoning (overlay) District.** Upon the completion of the public hearing, the Planning Commission shall consider a decision recommending the approval or denial of the rezoning of the property to the Village Council for consideration of an amendment to rezoning the subject property.
- C. **Grant Tentative Approval/Denial of the Preliminary PUD Development Plan.** Upon the completion of the public hearing, the Planning Commission shall consider a decision recommending approval or denial of the Preliminary PUD Development Plan submitted by the applicant. The recommendation may consider a motion that the rezoning and plan:
 - a. be granted approval as submitted,
 - b. be granted tentative approval subject to specific conditions, or
 - c. be denied approval.
- D. **Form of PUD Development Plan Approval or Denial Action.** The grant or denial of a tentative approval shall be in the form of a written statement and shall include findings of fact and such other factual findings that set forth the reasons for the approval or denial of the applicants request for Rezoning and approval of the PUD Development Plan.

Section 10.08 - Zoning Map Designation. Upon approval of the rezoning to Planned Unit Development (overlay) District pursuant to this Article, the Village Clerk shall indicate the subject property on the Official Zoning Map as a Planned Unit Development (overlay) District by designating the property "PUD" and including the date of the rezoning approval in the record of Map amendments.

Section 10.09 - Status of Preliminary PUD Development Plan After Approval. Procedures for the notification of the applicant and status of the approval of a rezoning and Preliminary PUD Development Plan are as follows:

- A. **Notification of Applicant.** Within five days after the approval of the rezoning of the subject property and upon approval of the rezoning and Preliminary PUD Development Plan by the Planning Commission, notice of approval of rezoning ordinance and approval of the Preliminary PUD Development Plan shall be mailed via first class postage to the applicant by the Zoning Administrator.
- B. **Status of Preliminary PUD Development Plan.** Approval (or approval with conditions or denial) of a Preliminary PUD Development Plan shall not qualify as a Land Division Act plat of subdivision or Condominium Act

plan of subdivision for the purposes of recording with the Berrien County Register of Deeds. A PUD Development Plan which has been given tentative approval as submitted or which has been given tentative approval subject to conditions that the applicant agrees to comply, shall not be modified or revoked or otherwise impaired by action of the Village pending an application or applications for final approval without the express consent of the applicant; provided an application for final approval is filed, or in the case of staged development, provided applications are filed within the time or times specified in the action granting approval or tentative approval of the Preliminary PUD Development Plan by the Planning Commission.

- C. **Abandonment of Preliminary PUD Development Plan by Applicant.** In the event that a Preliminary PUD Development Plan is given tentative approval and thereafter, but prior to final approval, the applicant shall choose to abandon said Preliminary PUD Development Plan or shall fail to submit an application or application for final approval within the required time period, the approval or tentative approval shall be deemed revoked, and such action shall be noted in the record of the Village Clerk. Upon abandonment, the Planning Commission may consider action recommending rezoning of the subject property from PUD Planned Unit (overlay) Development to its prior zoning district classification.

Section 10.10 - Approval of Final PUD Development Plan. Procedures for the approval of a Final PUD Development Plan are as follows:

- A. **Submission Deadline and Extension.** Within a reasonable time after the approval of the rezoning and Preliminary PUD Development Plan, but not more than six (6) months thereafter, the applicant shall file with the Planning Commission a Final PUD Development Plan containing in final detailed form the information required as herein after provided. At its discretion and for good cause, the Planning Commission may extend for six (6) months the period for filing the Final PUD Development Plan. Contents of the Final PUD Development Plan shall include a land division (subdivision) plat or condominium (Exhibit E) plan prepared in conformance with the specification required for recording a plat under the terms of the State of Michigan Land Division Act, P.A. 87 of 1997, as amended (formally Subdivision Control Act) or the Condominium Act. P.A. 58 of 1978, as amended, signed and sealed by a State of Michigan Registered Surveyor. Water and sewer system engineering drawings with accompanying State of Michigan Department of Public Health or State of Michigan Department of Environmental Quality system extension permits signed and sealed by a State of Michigan Licensed Professional Civil Engineer shall accompany the PUD Development Plan submission. Also to be submitted by the applicant for approval by the Village Engineer are a storm water drainage system management plan and plans and specifications for all streets prepared in conformance with the Village of Eau Claire development standards, which from time-to-time are adopted by the Village Council prepared, signed and sealed by a State of Michigan Licensed Professional Civil Engineer. In addition, the Planning Commission may require other maps and/or drawings as deemed necessary to render a decision concerning the approval of a Final PUD Development Plan.
- B. **Optional Public Hearing.** The Planning Commission, at its discretion, may give notice and provide an opportunity for the public to comment on the proposed Final PUD Development Plan.
- C. **Approval or Denial of Final PUD Development Plan.** The Planning Commission shall review the proposed Final PUD Development Plan, and shall approve the Final PUD Development Plan if it is in substantial compliance with the Preliminary PUD Development Plan and contains, in final detailed form, the information herein set forth.
- D. **Application of Conditions and Restrictions.** Prior to the approval of any Final PUD Development Plan, the Planning Commission may recommend the adoption of such covenants, conditions, and restrictions upon the establishment, location, constructions, maintenance, and operation of the Planned Unit Development as the Planning Commission deems necessary for the purposes of the public interest and to secure compliance with the criteria specified in this Ordinance.

- E. **Status of Final Approval of PUD Development Plan.** After approval has been given, the use of land and the construction, modification or alteration of any building or structures within the Planned Unit Development will be governed by the approved Final PUD Development Plan rather than by any other provision of this Ordinance.
- F. **Minor Changes to Final PUD Development Plan.** Any minor extensions, alternations, or modification of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the Final PUD Development Plan.
- G. **Major Changes to Final PUD Development Plan.** Any major change to a Final PUD Development Plan, as determined by the Planning Commission, shall made by the Planning Commission after processing an amendment to the Final PUD Development Plan pursuant to the approval process for both the Preliminary and Final PUD Development Plan approval.
- H. **Rescinding / Abandonment of Final PUD Development Plan Approval.** In any case where construction has not yet begun on an approved Planned Unit Development within one (1) year after the date of Final Approval of a PUD Development Plan, or after a one (1) year extension thereof by the Planning Commission upon showing of cause or upon written notification by the applicant that the proposed Planned Unit Development will not be constructed, the Planning Commission may rescind the Final PUD Development Plan approval and take such other action to rezone the subject property back to its original zoning district classification.

Section 10.11 - Standards and Criteria For Planned Unit Developments. The PUD Development Plan of the Planned Unit Development shall be consistent with the following standards for use of land, the use of, type and mass, design and location of buildings, the density, common open space and public facilities servicing the site:

- 1. **Variety of Building Types and Layout Design.** The PUD Development Plan may increase the residential (or commercial or industrial building area) density of the underlying zoning district classification in accordance with the bonus density provision for the CD Cluster Development (overlay) District (Article VI), where a variety of housing or building types including clustered housing, buildings sharing common walls, etc. are incorporated in a unique design meeting the open space requirements of CD - Cluster Development (overlay) District.
- 2. **Building Lot Coverage.** The building coverage ratio may be increased for the number of allowed residential units (or the total commercial or industrial building area) in accordance with the bonus density provisions of the CD Cluster Development (overlay) District (Article XI), a proposed development meets the requirements of paragraph one (1) above.
- 3. **Height Restrictions.** The PUD Development Plan must conform to the height requirements of the underlying zoning district in which the subject property is located.
- 4. **Mixture of Uses Permitted.** A mixture of uses is permitted in any PUD Development Plan, amount and location subject to approval by the Planning Commission.
- 5. **Perimeter Setback Requirement.** Wherever possible, the applicant shall provide perimeter setbacks to abutting properties at the same dimensions as required of the underlying zoning district classification in which the property is located subject to approval of the Planning Commission which may require greater setback distances when in the opinion of the Planning Commission the proposed Planned Unit Development will have a detrimental effect on abutting land uses.
- 6. **Conveyance of Open Spaces and/or Common Elements.** Any area designated as open space or common elements (included limited common elements), shall be conveyed to an appropriate public body or private owners' association, as required by law.
- 7. **Off-Street Parking and Loading.** Off-street parking and loading shall be in conformance with the minimum specifications of Article for the land uses proposed within the Planned Unit Development.

8. **Utilities.** The proposed PUD Development Plan shall provide for installation of public water, sanitary sewer and storm drainage meeting the standards of the Village of Eau Claire.
9. **Landscaping and Screening.** Landscaping and screening shall be in conformance with the minimum specifications of this Ordinance as they pertain to the specific uses proposed within the Planned Unit Development. The Planning Commission may require additional landscaping and screening when in the opinion of the Planning Commission the proposed Planned Unit Development will have a detrimental effect on abutting land uses.
10. **Pedestrian Pathways and Sidewalks.** Pedestrian pathways and sidewalks shall be in conformance with the minimum specifications of this Ordinance and the development standards of the Village, as they pertain to the specific uses proposed within the Planned Unit Development. The Planning Commission may require additional pathways and sidewalks when in the opinion of the Planning Commission the intensity of development requires additional pathways and sidewalks to safely move pedestrian traffic throughout the Planned Unit Development.
11. **Signs.** Signs in the Planned Unit Development District shall conform with the provisions of Article XIV.

ARTICLE XI GENERAL PROVISIONS

Section 11.01 - Conflicting Regulations.

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

Section 11.02 - Scope of Regulations - Use of Land, Buildings and Structures.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered, and no new use shall be made of or change shall be made to any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

Section 11.03 - Use Regulations.

Except as otherwise provided herein, regulations governing land and building use are hereby established in Articles IV through IX covering each district. Uses permitted in each district after special approval shall be permitted only in accordance with the special approval standards and procedures of this ordinance.

Section 11.04 - Uses Not Otherwise Specified Within a Use District.

Uses which have not been specifically mentioned within any use district may be processed under the Special Use Permit procedure, in accordance to Article XV. Such uses and related structures shall be subject to the area, height, bulk, and placement requirements for the district in which it is located.

Section 11.05 - General Area, Height, Bulk Regulations.

Except as otherwise provided herein, regulations governing the minimum lot width, lot area per dwelling unit, required open spaces, height of buildings and other pertinent factors are the regulations cited within the zoning district in which the property is located.

Section 11.06 - Land Required to Satisfy Regulations.

No portion of a lot used in or necessary for compliance with the provisions of this ordinance shall through sale or otherwise be reduced beyond said minimums or again be used to satisfy the zoning requirements of another lot.

Section 11.07 - Public Utility Facilities.

When operating requirements necessitate the locating of public utility facilities and uses (without storage yards) within the district in order to serve the immediate vicinity, such facilities shall be permitted in all zoning districts, subject to special approval by the Planning Commission (see Article XV), review and approval of the site plan (see Article XVII), and a finding by the Planning Commission that the use is compatible to the surrounding area and will not be injurious to the surrounding neighborhood and is not contrary to the spirit and purpose of this ordinance. For the terms of this Ordinance cellular communication towers are not considered a public utility facility.

Section 11.08 - General Exceptions.

- A. **Essential Services.** Essential services shall be permitted as authorized and regulated by law and other ordinances of the Village, it being the intention hereof to exempt such essential services from the application of this ordinance, except that all buildings hereunder shall be subject to site plan review in accordance with this ordinance.
- B. **Voting Place.** The provisions of this ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.
- C. **Height Limits.** The height limits of this ordinance shall not apply to radio transmitting and receiving or television antennae, chimneys or flagpoles, church spires, belfries, cupolas, domes, water towers, observation towers, power

transmission towers, radio towers, masts, aerials, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, and other similar and necessary mechanical appurtenance pertaining to the permitted uses of the districts which they are located, provided that they do not exceed the maximum permitted height of the building by more than ten (10) feet.

Section 11.09 - Easements Not To Be Obstructed or Encroached Upon.

It shall be unlawful for any person to install, erect, cause or permit the installation of a permanent structure (garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement or its proper use.

Section 11.10 - Grades, Elevation Differentials, and Retaining Walls.

The grading of all building lots shall be such as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property, as required by the Michigan Construction Code.

Retaining walls in excess of one (1) foot in height shall require a zoning compliance permit. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in structurally sound, good and safe repair and shall not impair drainage or create negative impacts on any other lot.

Section 11.11 - Obstructions to Vision on Corner Lots.

No structure, wall, fence, shrubbery, or trees shall be erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding two and one-half (2½) feet in height above the curb level and trees where all branches are not less than six (6) feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

Section 11.12 - Minimum Distance Between Residential Buildings.

The sum of the minimum required side yards for single-family residential buildings on two (2) lots which abut each other along a common side lot line shall be not less than the total of the two (2) required side yards of either of the lots.

Section 11.13 - Fence, Wall and Privacy Screen Regulations.

Fences, walls and privacy screens are permitted subject to the following:

- A. The erection, construction or alteration of any fence, wall or privacy screen as defined herein, shall be constructed within all municipal codes and shall require a zoning permit and shall be located no closer than six (6) inches from the property line, however, the Zoning Administrator may issue a Zoning Permit for the location of a fence on the property line upon presentation of written consent of the abutting property owners and site documentation of actual location of the property line upon which the fence shall be located.
- B. No fence shall be located closer than forty-eight (48) inches from the rear property line where such property line abuts a designated alley maintained by the Village. The purpose of said setback is to provide room for storage of winter snow removal for the alley maintained by the Village.
- C. Fences or walls in single-family residential zones shall not exceed six (6) feet in height above grade and shall not extend toward the front of the lot farther than the front building line. Fences or walls are permitted within a front yard, provided that they do not exceed four (4) feet in height. All fences which are a part of any deck structure shall not exceed four (4) feet in height above the surface of the deck. All such fences shall be subject to the following conditions:
 1. Those side yards that have a common street line with front yards in the same block shall be treated as front yards and shall not have a fence over four (4) feet in height erected within the minimum front yard-setback.

2. On corner lots, fences shall not be higher than three (3) feet within twenty-five (25) feet of the intersection of the two (2) roads in order to maintain the clear vision area.
 3. Fences which serve as architectural or decorative landscaping and are not used to enclose property and/or are not placed on common lot lines, may be erected within the provisions of the minimum yard requirements as specified in the yard regulations for the zoning district in which the property is located.
- D. Fences which enclose public or institutional playgrounds shall not exceed six (6) feet in height above grade, and shall not obstruct vision to an extent greater than twenty-five (25) percent of their total areas.
- E. Fences shall not contain barbed wire, electric current or charge of electricity; provided, however, that fences in non-residential districts which enclose storage areas may have barbed wire connected therewith, provided such barbed wire is located more than six (6) feet above grade.

Section 11.14 - Required Walls, Berms and Greenbelts for Transitional Purposes.

Walls, berms, greenbelts or combinations thereof shall be required to provide various forms of transition which contribute to a more compatible, safe, attractive, functional and ecologically balanced community.

The minimum standards applicable to these improvements, are as follows:

A. Walls.

1. For those zoning districts and uses listed below, and as required elsewhere in this ordinance, there shall be provided and maintained on those sides abutting or adjacent to any residential district a decorative masonry obscuring wall as required below. An earthen berm or obscuring greenbelt may be utilized in place of a wall, subject to the review and approval of the Planning Commission. See items B and C, of this section for berm and greenbelt requirements.

2. Wall Height.

<i>Use or district</i>	<i>Requirements</i>
Off-street parking lot	Four (4) foot six (6) inch high wall
CBD and C districts	Four (4) foot six (6) inch high wall
I- Industrial District, open storage areas (when permitted), loading or unloading areas, service areas	Six (6) foot to eight (8) foot high wall
Compost heap	Four (4) foot six (6) inch high wall

3. Required walls shall be located on the lot line except where underground utilities interfere with such location or where this ordinance requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the Planning Commission may approve an alternate location for the wall. Required walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Planning Commission in reviewing such request.
4. The Zoning Board of Appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served.

B. Berms.

When berms are used as part of the required transitional areas, they shall be subject to the following conditions:

1. Required berms shall be constructed as landscaped earth mounds with a crest area of at least four (4) feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope, or retained by means of a wall, terrace, or other means acceptable to the Planning Commission. Whenever an earthen slope is provided, it shall be constructed with an incline not to exceed one (1) foot vertical rise to three (3) feet of horizontal distance.
2. Berm slopes shall be protected from erosion by sodding or seeding. Seeded slopes shall be protected with a straw mulch held in place by jute netting until the seed germinates and a permanent lawn is established. The straw mulch is not required if the seeded slope is protected by a net that is specifically designed to control erosion. The berm area shall be kept free from refuse and debris and shall be planted with living shrubs, trees or lawn, and shall be maintained in a healthy, growing condition.
3. A planting plan and grading plan shall be prepared for the berm. Plant materials within the berm area shall be installed in accordance with the requirements for greenbelts and plant material contained in this section.
4. The height of the berm shall be equivalent to the height of any required wall. A combination of berms and plantings may be approved if they equal the height of the required wall at the time of planting and will provide a complete obscuring screen year round. In granting approval, the Planning Commission shall determine that the proposed berm is at least comparable to a wall in affording necessary screening.

C. Greenbelts.

Wherever greenbelts are required as part of a transitional area, such greenbelts shall comply with the following requirements:

1. Nonobscuring greenbelts shall not be considered as a substitute for a wall as required elsewhere in this Ordinance.
2. Any such greenbelt shall contain at least one (1) tree for each thirty-linear feet of greenbelt. All such trees shall be ten (10) feet or more in height or a minimum caliper of one and one-half (1½) inches at the time of planting. The remaining ground surface area shall be seeded, sodded or planted with ground cover. Innovation and design of landscaping, berm placement and use of flowering trees is encouraged.
3. Greenbelts shall be so designed as to avoid creating obstacles to proper sight distance between vehicles and vehicles and pedestrians. (See Section 1.11).
4. All required greenbelts shall meet the following basic conditions:
 - a. Whenever in this ordinance a greenbelt or planting is required, it shall be planted within six (6) months from the date of issuance of a temporary certificate of occupancy. In the instance where such completion is not possible, a cash bond, letter of credit or corporate surety bond in an amount equal to the estimated cost of the landscape plan or portion thereof will be deposited with the Village Clerk.
 - b. A detailed plan for the greenbelt together with an accurate cost estimate shall be approved prior to the issuance of a building permit. The plan shall include the following items: plant list detailing the species, number, size or height at time of planting; location and spacing of plant materials; groundcover or grass (specify whether seed or sod); cross sections of any berms, and a maintenance plan and schedule for pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials.

c. All required planting materials shall be maintained in good condition by mowing and watering, by tilling and watering, or by mulching and watering, so as to present a healthy, neat, and orderly appearance free from refuse and debris. All unhealthy and dead materials shall be replaced within one (1) year or the next appropriate planting season. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided.

d. Plant materials shall be selected so as to insure that the root system will not interfere with public utilities and that fruit and other debris (other than leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners.

e. The following trees shall not be permitted in required greenbelts:

- | | |
|---------------------------------|-------------------|
| 1) Box Elder | 7) Tree of Heaven |
| 2) Silver Maples | 8) Catalpa |
| 3) Elms | 9) Black Locust |
| 4) Poplars | 10) Osage Orange |
| 5) Willows | 11) Cottonwood |
| 6) Horse Chestnut (nut bearing) | 12) Chinese Elm |

f. Recommended trees and plant materials and required minimum heights are as follows:

- 1) Evergreen trees - six (6) feet in height
 - Juniper
 - Hemlock
 - Fir
 - Pine
 - Spruce
 - Douglas-Fir
 - Cedar
- 2) Narrow evergreens - three (3) feet in height
 - Column Hinoki Cypress
 - Blue Columnar Chinese Juniper
 - Pyramidal Red-Cedar
 - Swiss Stone Pine
 - Pyramidal White Pine
 - Irish Yew
 - Douglas Arbor-Vitae
 - Columnar Giant Arbor-Vitae
- 3) Tree-like Shrubs-Four (4) feet in height
 - Flowering Crabs
 - Russian Olives
 - Mountain-Ash
 - Dogwood
 - Redbud
 - Rose of Sharon
 - Hornbeam
 - Hawthorn
 - Magnolia
 - Siberean Pea Tree
- 4) Large Deciduous Shrubs-Six (6) feet in height.
 - Honeysuckle
 - Viburnum
 - Mock-Orange
 - Forsythia
 - Lilac
 - Ninebark
 - Cottoneaster
 - Hazelnut
 - Euonymus
 - Privet
 - Buckthorn
 - Sumac
 - Autumn Olives
 - Dogwoods
 - Pussy Willow
 - Witch Hazel
 - Ninebark
 - High Bush Cranberry
 - Arrowwood
 - Wayfaring Tree

- 5) Large Deciduous Trees-One and one-half (1½) inches in caliper
- | | |
|------------------------|-----------------|
| - Oaks | - Honeylocust |
| - Hard Maples | - Sweet-Gum |
| - Hackberry | - Hop Hornbeam |
| - Planetree (Sycamore) | - Linden |
| - Birch | - Ash (grafted) |
| - Beech | - Ginkgo (male) |

Section 11.15 - Temporary and Portable Buildings, Uses, Structures and Special Events.

The Zoning Board of Appeals may permit temporary buildings, structures, and uses for a period not to exceed six (6) months provided that all requirements and conditions are met, as are the relative to the type of structure and use, the timing and arrangements for termination and removal. The Board of Appeals may require safeguards related to setbacks, screening, off-street parking which are considers necessary to protect the health, safety, welfare and comfort of inhabitants of the Village. Further, the Zoning Board of Appeals may require site plan approval by the Planning Commission and performance guarantees as conditions of approval. Mobile homes, mobile or temporary offices, trucks, truck trailers, vans or other passenger vehicles or trailers shall not be used for storage, warehousing, retail sales, service or offices, except by approval of the Zoning Board of Appeals and subject to conditions imposed by the Zoning Board of Appeals.

Section 11.16 - Storage of Obnoxious Matter in Open Containers Prohibited.

No garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be visible from any street.

Section 11.17 - Soil Excavation or Filling.

- A. The deposit or burying of garbage anywhere in the Village is expressly prohibited.
- B. The use of land for quarry excavation and the removal or filling of topsoil, sand, gravel or other material from or on the land is not permitted in any zoning district unless a plan for such excavation or filling has first been filed with and a zoning compliance permit is obtained from the Zoning Administrator, The plan which shall be compliant with all State of Michigan requirements and Village Ordinance 1973-4. Before issuing a permit, the Zoning Administrator shall determine that such removal will not cause stagnant water to collect or, at the expiration date of such permit, leave the surface of the land in an unsuitable condition or cause the land to be unfit for other uses permitted in the district in which the removal or filling occurs; and that such fill or removal will not cause water or other materials to encroach on any public street, sidewalk, or adjacent property not owned by the applicant. When appropriate, the building official may require that such fill or excavation areas are protected with fencing, guard rails, and warning signs.
- C. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the building official, and a building permit has been issued for said building development.

Section 11.18 - Open Storage or Dumping on Land Prohibited.

The use of land for the open storage or collection or accumulation of lumber (excluding firewood less than two (2) feet long) or human-made materials, or for the dumping or disposal of scrap metal, junk, junk cars, parts of automobiles, trucks, and boats, tires, garbage, rubbish, or other refuse or of ashes, slag or other wastes or by-products, shall not be permitted in any zoning district.

Section 11.19 - Commercial Vehicles in Residential Areas.

- A. **Purpose.** The purpose of restrictions on commercial vehicles is to preserve the health, safety and general welfare of persons and property in areas designed and utilized for single-family residential development. The parking of large commercial vehicles are frequently impediments to the ingress and egress of emergency vehicles and equipment, and

are frequently unsafe when operated on residential streets. The noise, exhaust emissions and appearance of such commercial vehicles tend to impair the health, safety and general welfare of the people of the Village .

- B. **Residential Parking Prohibited.** No commercial vehicle of any kind, shall be parked in a residentially zoned or used area. Provided however, this provision shall not apply to commercial vehicles temporarily parked less than eight (8) hours in a residential area in conjunction with maintenance or service to a residential property.
- C. **Presumption of Ownership.** In any proceeding for violation of any parking provision of this section, the person to whom a commercial vehicle is registered, as determined from the registration plate displayed on said motor vehicle, shall be presumed in evidence to be the person who committed the violation charged.

Section 11.20 - Outdoor Storage of Recreation and Other Vehicles and Equipment in the Single-Family Residential District.

The outdoor storage or parking of any airplane, antique or racing automobile, boat, boat hoist or dock, float, trailer, trailer coach, camping trailer, motorized home, vacant or unused mobile home, demountable travel equipment of the type adaptable to light duty trucks, and other equipment or vehicles of a similar nature, shall be prohibited for a period greater than forty-eight (48) hours in all single-family residential districts, except where the following minimum conditions are met:

- A. All such vehicles or equipment shall be placed within a completely enclosed building or located behind the required front building line, but no closer than the required side or rear setback requirement.
- B. Storage or parking shall be limited to a lot or parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant.
- C. Trailer coaches, motor homes and other vehicles or equipment designed or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities, or to electricity, water or gas.
- D. Not more than two (2) recreation vehicles per dwelling unit may be kept or stored outdoors at one (1) time. .
- E. Such vehicles so kept or stored shall be in good repair. Open storage of partially or disassembled component parts of said uses is prohibited.
- F. The storage of vacant mobile homes in single-family residential districts shall be prohibited.

Section 11.21 - Unlicensed Vehicles.

No unlicensed motor vehicles shall be kept on any property for a period of more than fifteen (15) days except in an I - Industrial District or if contained entirely within a building. This provision shall not pertain to vehicles such as farm tractors which are not ordinarily licensed.

Section 11.22 - Enclosure of Roof Appliances or Accessories.

In all zoning districts, roof appliances such as, but not limited to, cooling towers, air conditioners, heating apparatus, dust collectors, filters, transformers and any other such appliance or apparatus, other than flag poles, chimneys for carrying products of combustion, and radio antenna towers, shall be enclosed with opaque screens not less in height than the height of the highest appliance, as measured from the plane of the roof surface upon which the screen, device is mounted to the top of the highest appliance. However, if the screening device is mounted on the top of the parapet or other part of the building facade which extends above the roof surface, and the height of the parapet or other part of the building facade is equal to the height of the highest appliance, such walls may be lowered to permit passage of air for cross ventilation, provided that the roof appliances are totally screened from view. The design of the screening device shall be compatible with the architectural design of the building upon which it is located.

Section 11.23 - Sidewalks.

For all developments requiring site plan approval, either a new public sidewalk or the reconstruction of existing sidewalks, shall be required to be constructed to Village standards along the perimeter of the lot which abuts any major, intermediate or collector street as defined in the Village Land Use Plan. New or reconstructed sidewalks or bikeways shall be aligned with existing or proposed sidewalks or bikeways.

Section 11.24 - Keeping of Farm Animals and Other Animals.

The keeping, raising, or breeding of animals, poultry or livestock, including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits and similar animals commonly kept as pets), shall be prohibited, except as may be permitted by and under conditions of public safety, comfort, convenience and quiet use of property imposed by the zoning board of appeals; except for active agricultural farm operations located in the Village.

Section 11.25 - Dumpsters or Outdoor Trash Receptacles.

Any new or altered use which requires site plan review under and has an outdoor trash storage area shall comply with the following requirements:

- A. Any outdoor trash storage area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
- B. A decorative masonry, wood, or plastic composite wall of six (6) feet in height shall enclose three (3) sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. Screening gates may be required by the Planning Commission when deemed necessary to obscure a trash receptacle from view from a public right-of-way. The surface under any such storage area shall be constructed of concrete asphalt or other similar surface.
- C. In no instance shall any such refuse be visible above the required enclosure.
- D. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
- E. Any such storage shall be located in a rear yard or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.

Section 11.26 - Swimming Pool Regulations.

- A. **Permit Application.** It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and/or Zoning Administrator and obtaining a permit thereof. Application for such permit shall show the name of the owner, a plot plan of the property showing the location of such swimming pool, a detailed plan and specifications for such swimming pool, and full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein.
- B. **Location.** Outdoor swimming pools may be erected in the rear yard, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.
- C. **Fencing.** The swimming pool shall be completely enclosed by a fence not less than four (4) feet in height. The gates shall be of the self-closing, self-latching type with latch on the inside of the gate not readily available for children to

open. A fence which encloses the yard, as a whole, of the type referred to above, may be considered as complying with the requirements hereof. All gates must be locked when the residents are away from the house or when the pool is not in use.

- D. **Inspection.** The building official shall have the right, at any reasonable hour, to inspect any swimming pool for the purpose of determining that all provisions of this section are complied with. Before any swimming pool shall be used, a final inspection and approval must be received from both the building official and plumbing inspector.
- F. **Nuisance.** Any such outdoor swimming pool installed, operated or maintained in violation of provisions of this section shall constitute a nuisance, and the Village may, in addition to the penalties herein set forth in Article XXII, maintain any proper action for the abatement of such nuisance.

Section 11.27 - Performance Standards.

No activity, operation, or use shall be permitted on any property which by reason of the emission of odor, fumes, smoke, vibration, radiation, noise or disposal of waste is deleterious to other permitted activities in the zone district or is obnoxious or offensive to uses permitted in neighboring districts, or is harmful to the general health, safety or welfare of the community.

The following standards shall apply:

A. **Noise.**

1. **Noise level limits.** No operation or activity shall be carried on which causes or creates measurable noise levels which have an annoying or disruptive effect on surrounding properties. Noise emanating from a use in any district shall not exceed the level of ordinary conversation at the boundaries of the lot. Short intermittent noise peaks may be expected if they do not exceed normal traffic noise peaks at any point on the lot boundaries.
2. **Permitted Exemptions.** Noise resulting from the following activities shall be exempt from the maximum permitted sound levels provided such activity occurs in a legally accepted manner:
 - Temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m.
 - Performance of emergency work.
 - Warning devices necessary for public safety, such as police, fire, and ambulance sirens and train horns.
 - Lawn care and house maintenance that occurs between 9:00 a.m. and 9:00p.m.

B. **Vibration.**

1. **Permitted Vibration.** Vibration is the oscillatory motion of a solid body. Machines or operations which cause vibration may be permitted in industrial districts, provided that: No operation shall generate any ground- or structure-borne vibrational motion that is perceptible to the human sense of touch beyond the property line of the site on which the operation is located, and
2. **Permitted exemptions.** Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the maximum permitted vibration levels in the above section, provided that such activity occurs in a legally accepted manner.

C. **Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion.**

The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, or other applicable state or federal regulations. No person, firm or corporation shall operate or maintain any process for

any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.

D. Odor.

Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life.

E. Glare and Heat.

Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half (½) of one (1) foot-candle when measured at any point along the property line of the site on which the operation is located. Any operation which produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.

F. Fire and Safety Hazards.

The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all applicable state, county and local regulations, including the state Fire Prevention Act, Michigan Public Act 207 of 1941, as amended. Further, all storage tanks for flammable liquid materials above ground shall be located at least one hundred fifty (150) feet from all property lines, and shall be completely surrounded by earth embankments, dikes, or another type of approved retaining wall capable of containing the total capacity of all tanks so enclosed. Below-ground bulk storage tanks which contain flammable material shall be located no closer to the property line than seventy-five (75) feet.

G. Hazardous Substance Containment and Storage.

The storage and handling of hazardous substances shall comply with all applicable state, county and local regulations. There shall be no general purpose floor drains in structures in which hazardous substances are kept. Above ground storage containers for hazardous materials shall require secondary containment facility capable of containing the total volume of all hazardous substances.

H. Sewage Wastes and Water Pollution.

Sewage disposal and water pollution shall be subject to the standards and regulations established by federal, state, county and local regulatory agencies, including the Michigan Department of Health, the Michigan Department of Natural Resources, the Berrien County Health Department, and the U. S. Environmental Protection Agency.

I. Gases.

The escape of or emission of any gas which is injurious or destructive to life or property, or which is explosive, is prohibited. Gaseous emissions shall be subject to regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, the federal Clean Air Act of 1963, as amended, and any other applicable state or federal regulations.

J. Electromagnetic Radiation and Radio Transmission.

Electronic equipment required in an industrial, commercial, or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.

K. Radioactive Materials.

Radioactive materials, wastes and emissions, including electromagnetic radiation such as from an x-ray machine, shall not exceed levels established by federal agencies which have jurisdiction.

ARTICLE XII SPECIAL PROVISIONS

Section 12.01 - Statement of Intent.

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

Unless otherwise specified, each use listed in this article shall be subject to all applicable yard, bulk and other standards for the district in which the use is located.

Section 12.02 - Accessory Buildings, Structures, Decks and Uses in Single-family Residential Districts.

- A. Where a roofed accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this ordinance applicable to main buildings.
- B. No detached accessory buildings, structures, or uses in an R- Residential District shall be erected in the front or required side yard or forward of the front building line or within permanent easements.
- C. Accessory buildings or structures may be located in a side yard behind the front building line and in the rear yard, but shall be at least three (3) feet from all adjoining lot lines and ten (10) feet from any principal building. In no instance shall an accessory structure be located within a dedicated easement. No accessory structure shall exceed fifteen (15) feet in height, except as otherwise expressly permitted herein.
- D. A building accessory to a residential building may occupy not more than twenty-five (25) percent of a required rear yard, plus thirty (30) percent of any non-required rear yard, provided that the total floor area of all accessory buildings shall not exceed one thousand two hundred fifty (1,250) square feet and not have any dimension greater than forty (40) feet.
- E. On corner lots where a rear yard abuts a side yard, accessory buildings on the corner lot shall have a minimum setback from the rear lot line a distance equal to the least side setback required for the lot abutting the corner lot.
- F. The use of any accessory building for the overnight housing of persons is prohibited, unless expressly permitted by this ordinance.
- G. A deck as defined in this ordinance shall not be governed by the foregoing provisions regulating accessory structures. A deck may intrude into the required rear yard and may be constructed in any other non-required side or rear yard area. However, in no event shall a deck be constructed with less than five (5) feet of separation from a side or rear yard lot line. A deck shall be considered as part of the principal building for computation of maximum lot coverage. The maximum lot coverage may be exceeded by an additional ten (10) percent in order to permit construction of a deck.

Section 12.03 - Accessory Buildings in Other than Single-family Residential Districts.

- A. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this ordinance, applicable to main buildings.

- B. No accessory structure shall be erected in the front yard. In the case of lots with two (2) front yards, no accessory structure shall be located in the required minimum setback of either front yard. Accessory buildings in nonresidential districts shall be limited to two (2) buildings per lot.
- C. No detached accessory building in an MF - Multi-Family district shall exceed one (1) story or fifteen (15) feet in height. Accessory buildings in all other districts may be constructed equal to the permitted maximum height of structures in said districts, subject to Planning Commission review and approval.
- D. An accessory building in a nonresidential zone may not occupy more than thirty (30) percent of the area of a lot exclusive of required yard setbacks.
- E. The use of any accessory building for the overnight housing of persons is prohibited unless expressly permitted by this ordinance.

Section 12.04 - Adult Business Including Adult Book or Supply Stores, Adult Motion Picture Theaters, Adult Live Stage Performing Theaters, Adult Outdoor Motion Picture Theaters, Group "a" Cabarets, and Massage Parlors or Massage Establishments.

- A. In the preparation and enactment of this section, it is recognized that there are some uses which, because of their very nature, have serious objectionable characteristics which have a deleterious effect upon residential, office and commercial areas. Regulation of the locations of these uses is necessary to ensure that the adverse effects of such businesses will not cause or contribute to the blighting or downgrading of the Village's residential neighborhoods and commercial centers. It is the intent of this section to provide reasonable regulations for the establishment of these uses in a viable, accessible location where the adverse impact of their operations may be minimized.
- B. No adult business as defined herein shall be permitted within one thousand (1,000) foot radius of an existing adult business. Measurement of the one thousand (1,000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.
- C. No adult business as defined herein shall be permitted within a five hundred (500) foot radius of any school, library, park, playground, movie theater, skating rink, pool hall, coin operated amusement center, licensed group day-care center as defined in Act 448 of Public Acts of 1980, or church, convent, monastery, synagogue, or similar place of worship. Measurement of the five hundred (500) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.
- D. The building and premises shall be designed and constructed so that material depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined in this ordinance) cannot be observed by pedestrians or from vehicles on any public right-of-way. This provision shall apply to any display, decoration, sign, show window, or other opening.
- E. No person shall reside in or permit any person to reside in the premises of an adult business.
- F. The provisions of this article regarding massage parlors, shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social workers and family counselors, who are licensed to practice their respective professions in the State of Michigan, or who are permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the State of Michigan, including certified members of the American Massage and Therapy Association, and certified members of the International Myomassethics Federation.

Section 12.05 - Automobile or Vehicle Dealers.

Automobile or vehicle dealers with outdoor sales space and/or repair facilities may be permitted, subject to the conditions listed below. These requirements shall apply to operations involved in the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, trucks and tractors, boats and other vehicles.

- A. All loading and parking areas for open-air businesses shall be confined within the boundaries of the site, and shall not be permitted to spill over onto adjacent public rights-of-way.
 - 1. The portion of any parcel used for an open air business shall be located no closer than two hundred fifty (250) feet from any parcel that is zoned or used for residential purposes.
 - 2. Devices for the transmission or broadcasting of voice or music shall be prohibited outside of any building.
 - 3. All outside storage of used tires, auto parts, and other material shall be enclosed with a metal. Wood. Plastic composite or masonry wall, not less than six (6) feet in height or at least one (1) foot above the height of the screened material, whichever is taller. The enclosure shall be equipped with an opaque lockable gate that is the same height as the enclosure itself. Inoperable, wrecked or partially dismantled vehicles shall not be stored or parked outside for a period exceeding two (2) days.
- B. The lot or show area shall be hard-surfaced with concrete or plant mix bituminous material, and shall be graded and drained so as to dispose of all surface water accumulated within the area.
- C. Access to the outdoor sales area shall be at least sixty (60) feet from the intersection of any two (2) streets.
- D. Any servicing of vehicles, including major motor repair and refinishing, shall be subject to the following requirements:
 - (a). Service activities shall be clearly incidental to the vehicle sales operation.
 - (b). Vehicle service activities shall occur within a completely enclosed building.
 - (c). Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
 - (d). The building containing service operations shall be located a minimum of fifty (50) feet from any property line.
 - (e). There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the service building.

Section 12.06 - Automobile Filling Stations, Service Stations, and Repair Garages.

The following regulations shall apply to automobile filling stations and automobile or vehicle service stations, including tire, battery, muffler and undercoating shops:

- A. The minimum lot area shall be fifteen thousand (15,000) square feet for automobile filling stations and twelve thousand (12,000) square feet for automobile service stations. Gasoline service stations with repair facilities shall provide access to such repair facilities from the rear yard only. All such facilities shall not be located within five hundred (500) feet of places of public assembly.
- B. The curb cuts shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from any residentially zoned districts. Drives shall be no less than twenty (20) feet wide, nor

wider than thirty (30) feet at the right-of-way line. No more than one (1) such drive or curb opening shall be permitted for every seventy-five (75) feet of frontage along any street.

- C. Quick oil change facilities shall provide off-street waiting spaces equal to five (5) times the number of oil change stalls for automobiles awaiting entrance. Each off-street waiting space shall be ten (10) feet wide by twenty (20) feet long.
- D. The entire lot, excluding areas occupied by landscaping and building, shall be hard-surfaced with concrete or plant-mixed bituminous material. Curbs of at least six (6) inches in height shall be installed around the perimeter of all surfaced areas.
- E. All lubrication equipment, automobile wash equipment, hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line.
- F. The storage, sale, or rental of new or used cars, trucks, trailers, and any other vehicles on the premises is prohibited. Inoperable, wrecked or partially dismantled vehicles shall not be stored or parked outside for a period exceeding two (2) days.

Section 12.07 - Automobile or Car Wash Establishments.

The following regulations shall apply to automobile or car wash establishments:

- A. All washing activities shall be carried out within a building.
- B. Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. Off-street waiting spaces shall equal five (5) plus the number of wash stall, sized no less than ten (10) feet wide and twenty (20) feet long. All maneuvering areas, stacking lanes, and exit aprons shall be located on the car wash parcel itself. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash.
- C. Sufficient space shall be provided for drying of the vehicle undercarriage during sub-freezing weather prior to existing onto the public thoroughfare.
- D. Buildings should be oriented so that open bays, particularly for self-serve automobile washes, do not face onto adjacent thoroughfares unless screened by an adjoining lot or building.
- E. In case any off-street parking area abuts a lot in any residential district, a six (6) foot high wall or greenbelt shall be provided, as per Article XIII, Section 13.06.

Section 12.08 - Bed and Breakfast Establishments.

Bed and breakfast establishments shall be subject to the following regulations:

- A. The bed and breakfast operation shall be clearly incidental to the principal residence on the site. Accordingly, the bed and breakfast operations shall be confined to the single-family dwelling unit which is the principal dwelling on the site. Not more than twenty-five (25) percent of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms. Food may be served only to those persons who rent a room in the bed and breakfast facility.
- B. The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast facility is in operation.
- C. A building used for bed and breakfast operations shall have at least two (2) exits to the outdoors. Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty

(30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants. Each sleeping room shall be equipped with a smoke detector.

- D. Adequate off-street parking shall be provided for bed and breakfast patrons, in accordance with Article XIII. Off-street parking in the front yard is prohibited.

Section 12.09 - Cemeteries.

Because of the effects of the large land area devoted to this use on the continuity of local streets, and because this use does not require water and sewer service, the Planning Commission shall permit the establishment of this use in any residential or commercial zoning district only when the following conditions are met:

- A. Any crematorium, mausoleum, columbarium, or other building shall be designed and located in accordance with a cemetery master plan, which shall be subject to site plan approval by the Planning Commission.
- B. No building or structures containing bodies or remains, other than subterranean graves, shall be located closer than two hundred (200) feet to the boundary line of any residential or commercial district.
- C. Entrances to cemeteries shall be off of a major or collector street as defined in Article XXIII, and shall be designed to minimize traffic congestion.
- D. All sides of the cemetery shall be screened from any residential view by providing a continuous and completely obscuring wall or fence, four (4) feet six (6) inches in height, measured from the surface of the ground. The Planning Commission may permit a "chain link" type fence adequately screened with deciduous and evergreen material.
- E. Approval by the Planning Commission shall be given contingent on submission of a satisfactory drainage plan.

Section 12.10 - Child Care and Adult Care Facilities.

It is the intent of this section to provide for healthy and safe child care and foster care establishments in the Village of Eau Claire; to reduce the negative effects between incompatible land uses; to provide adequate indoor play areas; and to ensure that child care and foster care establishments are properly licensed.

- A. **Regulations.** Child care and adult foster care establishments shall be permitted as provided below. Day nurseries, nursery schools or preschools shall meet the same requirements and child care centers.
1. Family day care or home child care facilities shall be permitted by right in all residential districts subject to the following provisions:
 - (a). Such uses shall be duly licensed by the appropriate state agency. Proof of compliance with state licensing requirements must be submitted to the Zoning Administrator.
 - (b). Buildings and lots so used shall conform to all state and local zoning and building ordinance requirements.
 - (c). All dimension requirements stipulated in the zone in which the family day care or home child care facility is proposed shall apply.
 2. Group day care facilities and foster family homes shall be permitted in all residential districts by special use permit in accord with Article XV. Such uses shall be subject to the same provisions as family day care or home child care facilities. Additionally, the following provisions must also be met:
 - (a). Not less than nine hundred (900) square feet of outdoor play space or open recreation space be made available.

- (b). The group day care facility and foster family home must be incidental to the residential use.
 - (c). One (1) person may be employed at the facility other than family members.
 - (d). Fence must be provided around all play areas and open recreational space per the requirements of Article XI, Section 11.13, unless waived by the Planning Commission.
3. Child care centers and foster care centers shall be permitted in the C - Commercial and MF - Multi-Family zoning districts by special use permit. They are not permitted in R - Residential District. The permit will require that:
- (a). All such child care centers and adult foster care establishments comply with existing state law with regard to handicapped access.
 - (b). All such child care centers and adult foster care establishments shall be licensed by the appropriate state agency.
 - (c). Buildings and lots shall conform to all state and local zoning and building requirements.
 - (d). Contiguous open space (play area) shall be a minimum of one thousand two hundred (1,200) square feet. Contiguous open space (play area) shall be provided exclusive of the front yard, side yard, driveway, and parking areas. The open space requirements may be waived or reduced by the Zoning Administrator if a public open space is located within five hundred (500) feet of the proposed child care center or foster care facility.
 - (e). For child care centers with any more than twenty-five (25) children, an additional fifty (50) square feet of contiguous open space must be provided for every child over twenty-five (25).
 - (f). A fence must be provided around all play areas and open recreational space per the requirements in Article XI, Section 11.13.
 - (g). Open recreational space shall be screened per the requirements in the landscape ordinance from adjoining properties when deemed necessary as a condition of site plan review.
 - (h). Indoor play areas for child care centers shall be thirty-five (35) square feet per child exclusive of hallways, bathrooms, reception and office areas, kitchens, storage and cloakroom areas and any area used exclusively for rest or sleep.

Section 12.11 - Drive-In Theaters.

The following provisions shall apply to all drive-in theaters:

- A. Drive-in theaters shall be designed and constructed in accordance with an internal site plan, which shall be subject to the site plan approval by the Planning Commission. Particular consideration shall be given to drainage, lighting, and internal vehicular circulation.
- B. All buildings or other structures shall be set back a minimum of sixty (60) feet from any street right-of-way line. The face of the theater screen shall not be closer than five hundred (500) feet to any public road or highway right-of-way, and shall be constructed so it is not visible from any road, highway, or residentially zoned district.
- C. Driveways serving drive-in establishments shall be off of a major street as defined in Article XXIII. In no case shall access to a drive-in theater be off of a residential street. The nearest edge of any entrance or exit drive shall be located

no closer than two hundred fifty (250) feet from any street or road intersection (as measured from the nearest intersection right-of-way line).

- D. A minimum of thirty (30) stacking spaces shall be provided on the premises for vehicles waiting to enter the theater. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.
- E. An eight (8) foot high obscuring wall shall be provided along all property lines abutting property that is zoned for residential, commercial, or office use.

Section 12.12 - Elderly Housing.

The following site development standards shall apply to housing for the elderly:

- A. All dwelling units shall have at least three hundred (300) square feet of floor area (not including kitchen and sanitary facilities) for each resident.
- B. Total lot coverage of all buildings, including dwelling units and related service buildings, shall not exceed twenty-five (25) percent of the total site exclusive of any dedicated public right-of-way.
- C. Buildings of greater than the maximum height may be allowed provided front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
- D. All ingress and egress from said site shall be directly onto a major thoroughfare, as defined in Article XXIII.
- E. Off-street parking shall be prohibited in the front setback area and within ten (10) feet of the rear or side property lines. In the case any off-street parking area abuts a lot in any residential district, a wall or greenbelt shall be provided as per Article XIII< Section 13.06.

Section 12.13 - Fast-Food and Drive-through Restaurants.

The following regulations shall apply to fast-food and drive-through restaurants:

- A. The main and accessory buildings shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line or residential property line.
- B. Drive-through windows or other facilities and waiting lanes shall not be located within one" hundred (100) feet of a residential zoned district.
- C. Ingress and egress to the site shall be located at least sixty (60) feet from the intersection of any two (2) streets (measured from the nearest right-of-way line).
- D. Devices for the transmission of voices shall not be audible beyond the boundaries of the site.
- E. In the case any off-street parking area abuts a lot in any residential district, a six (6) foot high wall or greenbelt shall be provided, Article XIII, Section 13.06.

Section 12.14 - Golf Courses and Country Clubs..

The following regulations shall apply to golf courses and country clubs.

- A. Golf courses and country clubs shall be designed and constructed in accordance with a site plan, which shall be subject to site plan approval by the Planning Commission (see Article XVIII).

- B. All golf courses shall have a minimum lot size of one hundred ten (110) acres. nine-hole courses with regulation length fairways shall have a minimum lot size of fifty (50) acres. An eighteen-hole par 3 course shall have a minimum lot size of fifty (50) acres.
- C. The principal and accessory buildings shall be set back at least seventy-five (75) feet from all property lines. Fairways and driving ranges shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course.
- D. Golf courses and country clubs shall have direct access a major street, as defined in Article XXIII.
- E. At least one (1) shelter building with toilet facilities shall be provided. The shelter shall meet all requirements of the Berrien County Health Department and the Michigan Construction Code.
- F. Engineering data shall be submitted to document the impact of the golf course on area drainage patterns and local water supply.

Section 12.15 - Junk and Recycling Yards and/or Facilities.

The following provisions shall apply to junk yards:

- A. The minimum lot size for junk yards shall be four (4) acres.
- B. A minimum setback of two hundred fifty (250) feet shall be maintained between the front property line and the portion of the lot on which materials are placed or stored. No yard or facility shall be located within three hundred (300) feet of any residentially zoned district.
- C. All roads, driveways, parking lots, and loading and unloading areas shall be paved with a concrete or plant mixed bituminous material. Storage areas shall be paved or treated in a manner approved by the Planning Commission so as to confine any wind-blown dust to within the boundaries of the site.
- D. The entire site shall be screened with an obscuring metal, wood, plastic composite or masonry wall, constructed in accordance with the Article XI, Section 11.13. The wall shall be uniformly painted and maintained in neat appearance, and shall not have any signs or symbols painted on it.
- E. Open burning shall be prohibited.
- F. All required county and state permits shall be obtained prior to establishing a junk yard or recycling center.

Section 12.16 - Kennels, Commercial.

Commercial kennels shall be permitted subject to the following:

- A. Any such kennel shall be subject to all permit and operational requirements established by county and state regulatory agencies.
- B. The lot on which any such kennel is located shall be a minimum of two (2) acres in size. The Planning Commission shall approve the maximum number of animals to be housed in the kennel based on the size of the principal use structure, number and size of animal runs and size of other exercise areas on the zoning lot.
- C. Buildings in which animals are kept, animal runs, and exercise areas shall not be located in any required front, side, or rear yard setback area, and shall be located at least one hundred (100) feet from any dwellings or buildings used by the public on adjacent property.

Section 12.17 - Hospitals.

The following regulations shall apply to hospitals:

- A. Buildings of greater than the maximum height may be allowed provided front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
- B. All ingress and egress from said site shall be directly onto a major street, as defined in Article XXIII.
- C. Off-street parking shall be prohibited in the front setback area and within ten (10) feet of the rear or side property lines. In the case any off-street parking area abuts a lot in any residential district, a wall or greenbelt shall be provided as per Article XIII, Section 13.06.
- D. Ambulance and emergency entrance areas shall be screened from view from adjacent residences by the building design or by a metal, wood, plastic composite or masonry wall constructed in accordance with Article XI, Section 11.13.
- E. Hospitals shall be constructed, maintained, and operated in conformance with applicable state and federal laws, including provisions of the Michigan Hospital Survey and Construction Act, Public Act 299 of 1947, as amended.

Section 12.18 - Mini-Warehouses.

The following regulations shall apply to mini-warehouses:

- A. Mini-warehouse establishments shall provide for storage only, which must be contained within an enclosed building.
- B. The entire site, exclusive of access drives, shall be enclosed with a six (6) foot high chain link fence or metal, wood, plastic composite or masonry wall, constructed in accordance with Article XI, Section 11.13.
- C. A landscaped greenbelt with a minimum width of twenty (20) feet shall be required adjacent to any street.
- D. The exterior of any mini-warehouse shall be of finished quality and design, compatible with the design of structures on surrounding property.
- E. All one-way driveways shall be designed with one ten (10) foot wide loading/unloading lane and one ten (10) foot travel lane, and all two-way driveways shall be designed with one ten (10) foot wide loading/unloading lane and two (2) ten (10) foot travel lanes.

The parking lanes may be eliminated if the driveway does not serve storage units. Signs and painted lines shall be used to indicate parking and traffic direction throughout the site.

Section 12.19 - Mobile Home Parks.

All mobile home parks shall comply with the requirements of Michigan Public Act 49 of 1976, as amended. Further, all mobile home parks shall comply with the provisions of this ordinance, the Michigan Mobile Home Commission Rules, and any other lawfully adopted ordinance of the Village. Should any conflict in legally approved regulatory provisions occur, whichever provisions impose the more restrictive or higher standard shall prevail.

- A. Mobile homes shall be located only in the MF- Multi-Family Zoning District as a special use approved in accord with Article XV.

- B. It shall be unlawful for any person to operate a mobile home park unless that individual obtains a license for such operation in compliance with the requirements of Michigan Public Act 419 of 1976, as amended.
- C. The Zoning Administrator or other authorized Village agent is granted the authority, as specified in Michigan Public Act 419 of 1976, as amended, to enter upon the premises of any mobile home park for the purpose of determining compliance with the provisions of this ordinance or other Village ordinances.

Whenever the zoning administrator finds conditions or practices which violate provisions of this ordinance or other regulations referenced herein, the building official shall give notice in writing by certified mail to the Director of the Michigan Mobile Home Commission. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.

- D. Each mobile home shall be of contemporary design and shall contain sanitary waste disposal facilities, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachment to appropriate external systems as commonly found in modern mobile homes. Each mobile home shall comply with the regulations for the district in which it is located, the regulations of the U.S. Department of Housing and Urban Development as adopted on June 15, 1976, and all subsequent amendments to such standards and regulations. Mobile homes constructed prior to June 15, 1976 shall be in full compliance with NFPA 501B/ANSI 119.1-1975 standards.
- E. Mobile homes shall comply with the minimum distances specified in R125.1941, Rule 941 of the Michigan Administrative code.

No mobile home unit shall be located within fifty (50) feet of the right-of-way of a public thoroughfare, or within twenty (20) feet of a mobile home park property line.

- F. No mobile home unit exterior wall surface shall be located within twenty (20) feet of any other mobile home unit's exterior wall surface.
- G. There shall be provided on each mobile home lot, an open space area to insure privacy, adequate natural light and ventilation to each home and to provide sufficient area for outdoor uses essential to the mobile home. Eighty (80) percent of the mobile home sites shall contain a minimum area of three thousand (3,000) square feet, and twenty (20) percent shall contain a minimum area of two thousand four hundred (2,400) square feet. This site area shall be computed exclusive of service drives, facilities, and recreation space.
- H. The following park site development standards shall apply:

1. **Park Size.** Mobile home parks shall be at least five (5) acres in size.
2. **Access.** All mobile home parks shall have paved access to a major street as defined in Article XXIII.
3. **Interior Roadways.** Main access drives within a mobile home park shall be no less than twenty-four (24) feet wide. Parking shall not be permitted on main access drives.

Secondary access drives shall be no less than twenty-two (22) feet in width. Parking shall not be permitted on twenty-two (22) foot wide drives.

4. **Sidewalks.** Minimum three (3) foot wide, concrete sidewalks shall be constructed on the street side of each mobile home lot in accordance with established engineering standards for the Village.

5. **Water and Sewer Service.** All mobile home parks shall be served by the Village of Eau Claire water and sewer utility systems.
 6. **Storm Drainage.** All developed portions of the mobile home park shall be served by adequate storm drainage facilities, designed and constructed in accordance with local, county, and state regulations.
 7. **Telephone and Electric Service.** All electric, telephone, and other lines within the park shall be underground.
 8. **Television Antennas.** Individual exterior television antennas shall not be placed on any mobile home unit or lot., except as provided by law. The mobile home park may provide a master exterior television antenna for connection to individual mobile home units, or an underground cable television system may be installed.
 9. **Skirting.** Each mobile home must be skirted within ninety (90) days after establishment in a mobile home park, in accordance with the Michigan Administrative Code, R125.1604 Rule 604. In the event that skirting cannot be installed in a timely manner due to inclement weather, the Zoning Administrator may permit extension of the time period.
 10. **Landscaping.** Mobile home parks shall be landscaped in accordance with an approved plan.. A minimum twenty (20) foot wide greenbelt shall be maintained along all exterior property lines of the mobile home park.
 11. **Open Space.** Every mobile home park shall be provided with at least one (1) conveniently located open space area. A minimum of two (2) percent of the mobile home park's gross acreage shall be dedicated for open space use, provided that the park shall have not less than twenty-five thousand (25,000) square feet of open space area.
 12. **Garbage and Refuse Collection.** Garbage and refuse collection areas shall be screened.
 13. **Lighting.** Street and yard lights shall be provided in sufficient number and intensity for the safe movement of vehicles and pedestrians.
- H. A building permit or zoning compliance permit shall be required for construction or erection of any accessory structures, canopies or awnings, or any addition to a mobile home which is not pre-fabricated in a factory before it is brought to the site.
- I. The parking of a mobile home for periods exceeding twenty-four (24) hours on lands not approved for mobile homes shall be expressly prohibited, except that the Zoning Administrator may extend temporary permits allowing the parking of a mobile home in a rear yard on private property, not to exceed a period of two (2) weeks.

Section 12.20 - Motels and Motel Courts.

The following regulations shall apply to motels and motel courts.

- A. No guest shall establish permanent residence at a motel for more than thirty (30) days within any calendar year.
- B. Each unit shall contain at least a bedroom and bath and contain a minimum gross floor area of two hundred fifty (250) square feet.
- C. Motels shall provide customary motel services, such as maid service, linen service, telephone and/or desk service, and the like.

- D. A masonry screen wall or obscuring greenbelt shall be provided along any property line where the adjacent property is zoned for residential use, in accordance with Article XI, Section 11.13.

Section 12.21 - Nursing Homes, Convalescent Homes, Rest Homes, Orphanages, and Half-Way Houses.

The following regulations shall apply to nursing homes, convalescent homes, rest homes, orphanages, and half-way houses:

- A. Such facilities shall be constructed, maintained, and operated in conformance with applicable state and federal laws.
- B. The site plan shall be so planned as to provide ingress and egress directly onto a major thoroughfare.
- C. The principal building and all accessory buildings shall be set back a minimum distance of thirty (30) feet from all property lines.
- D. Such facility shall provide a minimum of one hundred fifty (150) square feet of outdoor open space for every bed used or intended to be used. Such space shall have a total minimum area of not less than three thousand (3,000) square feet. The open space shall be landscaped and shall include places for walking and sitting. Off-street parking areas, driveways, and accessory uses or areas shall not be counted as required open space.

Section 12.22 - Open-Air Businesses.

A. The following regulations shall apply to open-air businesses:

- 1. The nearest edge of any entrance or exit drive shall be located no closer than sixty (60) feet from any street or road intersection as measured from the nearest intersection right-of-way line.
- 2. The minimum lot width for open-air businesses shall be one hundred (100) feet, except for temporary roadside stands.
- 3. All loading and parking areas for open-air businesses shall be confined within the boundaries of the site, and shall not be permitted to spillover onto adjacent roads.
- 4. A masonry screen wall shall be provided along any property line where the adjacent property is zoned for residential use, in accordance with Article XI, Section 11.13, except where the open-air business is a temporary Christmas tree sales lot or roadside stands (see subsection below).
- 5. All lighting shall be shielded from adjacent properties zoned or used for residential purposes.

B. The following regulation shall apply to plant material nurseries:

- 1. Plant storage and display areas shall comply with the minimum setback requirements for the district in which the nursery is located.
- 2. The storage of soil, fertilizer, and similar loosely packaged materials shall be contained and covered to prevent it from blowing onto adjacent properties.

C. The following regulations shall apply to the seasonal sales of Christmas trees

- 1. Unless Christmas tree sales are accessory to the principal use of the site, a permit shall be obtained from the Zoning Administrator to allow temporary use of the site for such sales.

2. Christmas tree sales shall not be permitted in residentially zoned districts.
3. All Christmas trees, as well as poles, lights, wires, or other items incidental to the sale of trees shall be removed from the premises by December 31st of the subject Christmas season.
4. Christmas trees on display for sale shall comply with the minimum setback requirements for the district in which the sales lot is located.
5. Christmas tree sales lot shall have adequate parking and a safe means of ingress and egress.

D. The following regulations shall apply to temporary roadside stands for the sale of agricultural products:

1. Any building or structure containing a roadside stand shall not exceed two hundred fifty (250) square feet in size.
2. Suitable trash containers shall be provided and maintained on the premises for public use.
3. Any building or structure containing a roadside stand shall be located no closer than twenty-five (25) feet to the nearest edge of the paved surface or gravel surface of any road.
4. Off-street parking shall be provided in accordance with the regulations in Article XIII; except that hard-surfacing shall not be required.

Section 12.23 - Race Tracks, Including Midget Auto and Karting Tracks.

Because race tracks develop a concentration of vehicular traffic in terms of ingress and egress from their parking areas and cause noise levels which may project beyond the property so used, they shall only be permitted in the C - General Commercial Zoning District when located adjacent to a major street and when land on all sides of the parcel in question is zoned C- General Commercial or I - Industrial. Race tracks shall further be subject to the following conditions and such other controls as the Planning Commission deems necessary to promote health, safety and general welfare in the Village.

- A. All access to the parking areas shall be provided from a major street or thoroughfare. In no case shall access to the site from a residential street be permitted.
- B. All sides of the development not abutting a major thoroughfare shall be provided with a six (6) foot high masonry wall and a twenty (20) foot wide obscuring greenbelt, in accordance with Article XI, Section 11.13.

Section 12.24 - Recreation Facilities.

- A. **Outdoor Recreation Facilities.** Outdoor recreation facilities, such as, but not limited to, playgrounds, ballfields, soccer fields, ski facilities, public swimming pools, and parks in general, shall comply with the following regulations:
 1. Principal and accessory buildings shall be set back at least five (5) feet from all property lines, unless otherwise specified herein.
 2. Outdoor recreation uses shall have direct access onto a thoroughfare.
 3. The location, layout, design, or operation of outdoor recreation facilities shall not impair the continued enjoyment, use, and future orderly development of adjacent and nearby properties. The Planning Commission may specify the hours of operation to assure compatibility with adjacent uses.

4. Outdoor recreation uses shall not generate excessive noise, odors, dust, or other impacts, such that the continued use and enjoyment of adjacent properties would be impaired.
5. Accessory retail or commercial facilities, such as food and beverage facilities or equipment shops, shall be designed to serve only the patrons of the outdoor recreation facility, unless otherwise listed as a permitted use in the district in which the facility is located.
6. A masonry wall or obscuring greenbelt, in accordance to Article XI, Section 11.13, shall be required wherever an outdoor recreation facility abuts directly upon land zoned or used for residential purposes.

B. **Indoor Recreation Facilities.** Indoor recreation facilities, such as, but not limited to, bowling establishments, billiard halls, indoor archery ranges, indoor tennis courts, indoor skating rinks, arcades, and similar indoor recreation uses shall comply with the following regulations:

1. Indoor recreation uses shall be set back a minimum of one hundred (100) feet from any property line which abuts a residential district.
2. The location, design, and operation of an indoor recreation shall not adversely affect the continued use, enjoyment, and development of adjacent properties. In considering this requirement, particular attention shall be focused on the adverse impact resulting from loitering on the premises.
3. Indoor recreation uses shall have direct access onto a major street or thoroughfare.

Section 12.25 - Religious Institutions.

- A. The minimum lot width for religious institutions shall be one hundred fifty (150) feet, and the minimum lot area shall be two (2) acres., unless varied by the Zoning Board of Appeals.
- B. Buildings of greater than the maximum height may be allowed provided that the front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
- C. All ingress and egress from said site shall be directly onto a major street or thoroughfare.
- D. In order to mitigate any negative off-site impacts (such as glare, noise, trespassing, odors or sound) on residential uses, the Planning Commission may require adequate fencing, screening or landscaping on the site.
- E. Off-street parking shall be prohibited in the front setback area and within ten (10) feet of the rear or side property lines. In the case any off-street parking area abuts a lot in any residential district, a four (4) foot six (6) inch high wall or obscuring greenbelt shall be provided as per Article, Section 11.13.
- F. Religious institutions shall comply with the following building setback requirements:
 1. **Front Yard:** Thirty-five (35) feet
 2. **Side Yards:** Twenty-five (25) feet
 3. **Rear Yards:** Thirty-five (35) feet
- G. Related uses, such as social centers, social service centers, schools, nursery schools, and rental banquet facilities, among others shall be prohibited unless the Planning Commission shall find that adverse impacts will be mitigated.

Section 12.26 - Sand and Gravel Extraction.

Sand and gravel deposits are non-renewable natural resources which are necessary and beneficial to the economy of the region. The standards in this section are intended to assure that removal in a manner that is compatible with the existing and proposed development and to insure the proper restoration of the land, in compliance with all State of Michigan mineral removal regulations.

- A. Permits for such use shall be issued for a one (1) year period by the Village council after recommendation by the Planning Commission. Unless the owner and/or operator of the extractive operation ignores and/or violates any conditions of approval, operation and restoration, the permit is renewable for connective one (1) year periods. To insure such compliance, the Zoning Administrator shall conduct periodic inspections and shall file a written notice to the permit holder if a violation is found in accordance with this Section. Thirty (30) days prior to the renewal date of any such permit, the Zoning Administrator shall file a written report with the Planning Commission on the status and compliance of the operation.

- B. Applications for a sand and gravel extraction permit shall include the following information, in addition to all additional information required as a part of site plan review and special land use review:
 - 1. Vertical aerial photograph, enlarged to a scale equal to one (1) inch equal to two hundred (200) feet, from an original photograph at a negative at a scale no smaller than one (1) inch equals one thousand (1,000) feet. The area covered by the vertical aerial photograph shall include: All land included in the petition; all contiguous land which is proposed to be used or has been used by the owner or leasehold applicant for any extraction, treatment or storage; and all public roads which can provide first point of access. Each such area or feature shall be delineated on the aerial.

 - 2. A land survey, prepared by an engineer or surveyor certified by the State of Michigan to prepare such survey, drawn to a scale of one (1) inch equals two hundred (200) feet. This survey shall include the boundary of the entire tract by courses and distances, boundary of the area where the extraction is proposed, and the means of vehicular access to the proposed operation. An estimate of the quantity of excavation shall also be provided.

 - 3. Report by a qualified soil scientist, soils engineer or geologist regarding the effect the proposed operation will have upon the watershed. Particular attention shall be focused on the impact on the water table. The report shall indicate if water bodies are to be created and the anticipated permanence of such.

 - 4. A master plan for the extraction of the natural resource deposits. The plan shall include a timetable for various stages of the operation and a restoration plan indicating how the parcel will be reused. A timetable for extraction and restoration shall be included for each yearly permit requested. Subsequent requests shall include an evaluation of work completed in the preceding year. The restoration plan shall include the proposed use of the parcel, the proposed topography drawn at contour intervals of two (2) feet, indication of water bodies and other major physical features, and the delineation of areas intended to be partitioned or subdivided, including a preliminary layout.

 - 5. An explanation of the access routes which will be used, together with an estimate of the size, weight, and frequency of trips. The proposed routing shall be submitted to the Berrien County Road Commission for review. The Village shall report any circulation or routing problems to the applicant and Berrien County Road Commission. After consultation with the Berrien County Road Commission, the Village may request use of alternate access routes or limited use of existing problem routes.

 - 6. A detailed explanation of how the applicant intends to comply with the operating requirements contained in subsection C, following.

C. A sand and gravel extraction permit shall not be issued unless the applicant demonstrates that the operation will comply with all of the following requirements:

1. The removal of sand, gravel, limestone or similar materials by excavation, stripping, mining or another method, and the on-site operations appurtenant to the extraction, including washing, grading, sorting, crushing and grinding operations, shall be carried on within the limits of an area approved for such activities. No natural resource extracted outside the limits of this area shall be brought in for washing, grading, or further processing, except in instances where the Village Council, following Planning Commission recommendation, finds that such activities will not conflict with the reasonable use and development of neighboring properties. Resource-related industries including, but not limited to, concrete batching plants and asphalt mixing plants, shall not be permitted as a part of the operation unless specifically approved and regulated as an accessory operation to the principal permitted use.
2. Excavation, washing and stockpiling of extracted material and all other shall not be conducted closer than three hundred (300) feet to the outer boundary of the area approved for extractive operation. Greenbelt plantings and landscaping shall be provided in the setback area as required in Article XI, Section 11.14.
3. In order to reduce the effects of airborne dust, dirt, and noise, all equipment for sorting, crushing, grinding, loading, weighing, and other operational structures shall not be built closer than three hundred (300) feet from any public street right-of-way line or adjacent property lines.

All such activities, equipment, roadways and material storage areas shall be treated, covered, muffled or otherwise controlled to minimize adverse impact beyond the property line. Trucks hauling extractive materials to or from the site shall be loaded and covered in accordance with all applicable state and county and local regulations.

Private access roads serving the operation shall be treated to create dust-free surfaces for a distance of three hundred (300) feet from any public access road. Arrangements shall also be made to minimize dust on public access routes traveled in the Village.

4. Extractive operations shall be subject to the following safety requirements:
 - (a). Where slopes steeper than thirty (30) degrees exist for any length of time, access to such slopes shall be barred by a fence or similarly effective barrier at least six (6) feet high.
 - (b). Where collections of water one (1) foot or more in depth exist for a period of one (1) week or more in an area of two hundred (200) square feet or more, access to such collections shall be fenced as required in (1) above.
 - (c). Where the extractive area is situated in marginal land areas consisting of swamp land or is bounded by natural bodies of water, a fence shall be required on those sides accessible via public rights-of-way and as the Village Council may require to secure safety. The Village Council may require the posting of "KEEP OUT DANGER" signs.
 - (d). The installation of a six (6) foot high fence around the entire site with suitable gates shall be considered as compliance with the requirements of this subsection.
5. Finished slopes shall be no steeper than three (3) feet horizontal to one (1) foot vertical. Where ponded water is created as a result of extraction, the three (3) on one (1) slope shall be extended into the water to a depth of five (5) feet. The slope requirements shall be met as the work in anyone (1) section of the excavation proceeds.

6. Sufficient top soil shall be stockpiled on the site so that the entire area may be recovered with a minimum of three (3) inches of top soil when excavating operations are completed. The top soil replacement shall occur immediately following the termination of extraction operations. All replaced top soil shall immediately be planted with grass or other plant material acceptable to the Village so as to prevent erosion. Lands under water or in approved beach areas are excluded from top soil replacement and planting requirements.
7. Explosives shall be used in accordance with the regulations established by the Michigan State Police, Fire Marshall Division.
8. Submittal of a performance guarantee, in a form acceptable to the Village Council, may be required as a condition of approval of a sand and gravel extraction operation.

Section 12.27 - Schools, Colleges, and Other Educational Institutions.

The following regulations shall apply to schools, colleges, and other educational institutions:

- A. All ingress and egress from said site shall be directly onto a major thoroughfare.
- B. Buildings of greater than the maximum height allowed in the zoning district may be allowed provided front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
- C. Off-street parking shall be prohibited in the front setback area and within (10) feet of the rear or side property lines. In the case any off-street parking area abuts a lot in any residential district, a masonry wall or obscuring greenbelt shall be provided in accordance with Article XI, Section 11.14.

Section 12.28 - Sewage Disposal Plants and Landfills.

The following regulations shall apply to sewage disposal plants and landfills:

- A. Any such use shall conform to current standards established by the U.S. Environmental Protection Agency, the U.S. Department of Agriculture, the Michigan Department of Natural Resources, and other regulatory agencies.
- B. An environmental impact assessment shall be prepared in accordance with requirements of Article XII, Section 12.28.

Section 12.29 - Veterinary Clinics.

Veterinary clinics shall comply with the following requirements:

- A. All activities shall be conducted within a completely enclosed building.
- B. All buildings shall be set back at least one hundred (100) feet from abutting land that is zoned for residential use.

Section 12.30 - Radio and Television Towers.

The following regulations shall apply to commercial and public radio and television towers, microwave towers, and other communication antennae/towers:

- A. Each tower shall be set back from all property lines a minimum distance equal to one and one-half (1½) times the height of the tower.
- B. An open weave, six (6) foot high chain link fence shall be constructed around the entire perimeter, in accordance with section Article XI, Section 11.13.

- C. Radio, television, and other types of communication towers shall be constructed, maintained, and operated in conformance with applicable state and federal laws.

Section 12.31 - Combined Office/Residential Facilities.

Uses having a combination of local business and residential facilities shall be permitted after special approval in the CBD - Central Business District, subject to the following:

- A. The principal use of the structure shall be for business purposes an use no less than half (½) of the floor space,.
- B. If the uses are on separate levels or floors, the business use shall occupy the ground floor.
- C. There shall be a maximum of three (3) residential units within anyone (1) structure.
- D. All residential units shall comply with minimum floor area standards specified in the Michigan Construction Code.
- E. The residence and the business facilities shall be subject to regular fire code inspections, as established by local fire code inspector.

Section 12.32 - Wireless Communication Facilities.

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, attempts have been made to balance these potentially competing interests and promote the public health, safety and welfare.

- A. **Authorization.** Subject to the standards and conditions set forth in this section, wireless communication facilities shall be permitted uses in the following circumstances, and in the following zoning districts by right:
1. Subject to the standards and conditions set forth below, wireless communication facilities shall be authorized as a permitted use within the I - Industrial Zoning District.
 - (a). An existing structure will serve as an attached wireless communication facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the Planning, Commission proposed to be either materially altered or materially changed appearance.
 - (b). 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 Council.
 - (c). 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 Planning Commission, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.
 - (e). A proposed tower in the I- Industrial Zoning District subject to the provisions of subsection 4 and the site plan review process outlined in Article XVII.
 2. Subject to the standards and conditions set forth in this section, wireless communication facilities shall be authorized as special land uses within the C - Commercial and MF - Multi-family Residential zoning districts.

(a). If it is demonstrated by an applicant that a wireless communication facility may not be reasonably established as a permitted use under (a), above, and, is required to be established outside of a district identified in (b), above, in order to operate a wireless communication service, then, wireless communication facilities may be permitted elsewhere in the community as a special land use, subject to subsection B, below.

B. General Regulations.

1. All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the (Planning Commission) 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). Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
 - (c). Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
 - (d). The maximum height of a 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). The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
 - (e). The setback of the support structure from any residential district shall be at least the height of the highest point of any structure on the premises. 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.
 - (f). 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 main or principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located.
 - (g). There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: The location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
 - (h). The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.

- (i). Where an attached wireless communication facility is proposed on the roof of a building, it 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.
 - (j). The Planning Commission shall, with respect to the color of the support structure and all accessory buildings, review and approve 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.
 - (k). 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 confirming 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.
 - (l). A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. The plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
2. Standards and conditions applicable to special land use facilities. Applications for wireless communication facilities which may be approved as special land use, shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions in Article XII, Section 12.32. In addition, the applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:
- (a). Proximity to an interstate or major thoroughfare.
 - (b). Areas of population concentration.
 - (c). Concentration of commercial, industrial, and/or other business centers.
 - (d). Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
 - (e). Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - (e). Other specifically identified reason(s) creating facility need.
3. All proposals shall be reviewed in conformity with the collocation requirements of this section.

C. Application Requirements.

- 1. A site plan prepared in accordance with Article XVII shall be submitted, including the location, size, screening and design of all buildings and structures, including fences and outdoor equipment.
- 2. The site plan shall also include a detailed landscaping plan where the support structure is being placed. The purpose of landscaping is to provide 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 also include a description of security to be posted and provided for the property. In this regard, to assure removal of the facility when abandoned or no longer needed, the Village Council may require security from the applicant, in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the attorney for the community and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner 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 attorney's fees incurred by the community 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 such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. MCLA 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 community.

E. Special requirements for facilities proposed to be situated outside a zoning district in which the facility is permitted by right or special use permit.

1. For facilities which are not permitted uses under Article XII, Section 12.32 and proposed to be located outside of an area identified in Article XII, Section 12.32A, an application shall be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements:
 - (a). At the time of the submitting, the applicant shall demonstrate that no location which meets the provisions of section Article XII, Section 12.32.2 can reasonably meet the coverage and/or capacity needs of the applicant.
 - (b). Wireless communication facilities shall be of a design such as (without limitation) a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Village.
 - (c). In single-family residential neighborhoods, site locations shall be permitted on the following sites (not stated in any order of priority), subject to application of all other standards contained in this section
 1. Municipally owned site.

2. Other governmentally owned site.
3. Religious or other institutional site.
4. Public park and other large permanent open space areas when compatible.
5. Public or private school site.
6. Other location if none of the above is available.

E. 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 wireless communication support structures within the community, and encourage the use of existing structures for attached wireless communication facility purposes. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress.

In light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the Village that all users should collocate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Village. The provisions of this subsection are designed to carry out and encourage conformity with this policy.

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 several standards contained in this ordinance.
3. **Requirements for Collocation.**
 - (a). A special land use permit 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). The policy of the community is for collocation. Thus, if a party who owns or otherwise controls a wireless communication 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.

(d). If a party who owns or otherwise controls a wireless communication facility fails or refuses to permit a feasible collocation, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Village, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the Village for a period of five (5) years from the date of the failure or refusal to permit the collocation. Such a party may seek and obtain a variance from the zoning board of appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

4. **Offer of Collocation Required.** An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for collocation.
5. Final approval under for a wireless communication support structure shall be effective for a period of six (6) months.
6. **Incentive.** Review of an application for collocation, and review of an application for a permit for use of an existing facility shall be expedited by the Village.

F. Removal.

1. 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 non-use.

(b). Six (6) months after new technology is available at reasonable cost, as determined by the legislative body of the community, which permits the operation of the communication system without the requirement of the support structure.

2. The situations in which removal of a facility is required, as set forth in paragraph 1 above, may be applied and limited to portions of a facility.

3. Upon the occurrence of one (1) or more of the events requiring removal, specified in paragraph 1 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 Planning Commission.
4. 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 and/or enforced from or under the security posted at the time application was made for establishing the facility.

ARTICLE XXI AMENDMENTS

Section 21.01 - Initiation. Amendments to this Ordinance may be initiated by the Village Council upon its own motion, by the Planning Commission, or may be proposed for consideration by the petition of the owners of property which would be involved or affected by such change or amendment. All proposed amendments not originating with the Planning Commission shall first be referred to the Planning Commission for study, review and recommendation.

Section 21.02 - Planning Commission Procedures. Amendments to this Ordinance, after review and recommendation of the Planning Commission, may be adopted and enacted by the Village Council. The procedures to be followed in the enactment of an amendment to this Ordinance are those prescribed by the Village for the enactment of any other kind of ordinance and The Michigan Zoning Enabling Act, P.A. 110 of 2006,, as amended.

1. **Application for Amending the Zoning Ordinance.** An applicant, the Village Council or Planning Commission, upon its own action, may initiate an application for amending the zoning ordinance text or map. An application (on a form provide by the Village) shall be filed with the Zoning Administrator who shall immediately transmit the application to the Planning Commission, if the application did not originate from the Planning Commission.
2. **Planning Commission Public Hearing Required.** Upon receipt of a application for a zoning amendment a notice that a public hearing for a zoning amendment shall be provided as follows:
 1. Publication in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the public hearing.
 2. Notice sent by mail or personal delivery to the owners of property for which the matter of the public hearing in being held.
 3. Notice sent by mail to all persons to whom real property is assesses within 300 feet of the property subject to the public hearing matter.
 4. Notice by mail or personal delivery to all occupants of all structures within 300 feet of the property subject to the public hearing matter.

The content of the public notice shall include:

1. A description of the nature of the request.
 2. The description of the property that is subject tot he request, including the street address or addresses if more than one property and if no addresses are assigned another means of identification.
 3. The date, time and location of the hearing.
 4. The time for submission of written comments and location where they will be accepted.
3. **Planning Commission Review and Recommendation.** Within thirty (30) days following the public hearing, the Planning Commission shall review the application for the amendment and comments received at

the public hearing, the site plan, and other materials submitted in relation to the application, and take action to recommend approval or denial of the application to the Village Council. The decision shall be incorporated in a statement of conclusions (Findings of Fact) relative to the amendment under consideration. The decision shall specify the basis for the decision, and any special circumstances utilized in arriving at the recommendation. The recommendation of the Planning Commission on application shall be made in accordance with conformance with the Village of Eau Claire Land Use Plan, as from time to time is amended, and such standards contained in this Ordinance which relate to the matters under consideration. Immediately upon action by the Planning Commission, the application, and all supporting documentation including the written report of the Planning Commission shall be transmitted to the Village Clerk for inclusion on the Village Council agenda.

Section 21.03 -Village Council Review and Approval. Upon receipt of an application and recommendation to amend the Ordinance, the Village Council shall cause the action to be scheduled for Planning Commission consideration and action. Prior to consideration of an action to approve or deny a request to amend the Ordinance, the Village Council shall consider the report and recommendation of the Planning Commission. The Village Council may provide for an additional public hearing. The Village Council may approve the amendment by a simple majority vote unless a protest petition is presented meeting the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended is presented to the Village Council. A minimum two-thirds ($\frac{2}{3}$) majority vote by the Village Council is required to approve an amendment upon the filing of a valid protest petition.

ARTICLE XXII ADMINISTRATION, FEES AND VIOLATIONS

Section 22.01 - Zoning Administrator. The provisions of this Ordinance shall be administered by the Zoning Administrator appointed by the Village Council. Said Zoning Administrator's duties shall be the administration of this Ordinance as prescribed by this Ordinance, including issuance of all zoning permits, zoning compliance statements whether an individual statement or as part of the issuance of a building permit pursuant to the Village Building Code, acceptance of any and all applications required in the administration of the Ordinance and any other duties assigned or delegated to the Zoning Administrator by the Village Council or any other law regulation or Ordinance of the State of Michigan or the Village of Eau Claire.

Section 22.02 - Zoning Permit (individually or in Combination with Building Permit)

- A. **Zoning Permit Requirements:** A Zoning Permit is required for and shall be obtained after the effective date of this Ordinance from the office of the Zoning Administrator or his agent by the owner or his agent for the following conditions:
1. The administrative coordination of Zoning Permits issued by the Village and Building Permits by the Zoning Administrator shall be in accordance with subsection B of this Ordinance.
 2. The staking out, grading or any other construction relating to all land developments intended or capable of meeting the requirements of this Ordinance for possible land, building or structural use.
 3. The construction, enlargement, alteration, demolition or moving of any dwelling, building or structure or any part thereof, being used or to be used for agricultural, residential, commercial, industrial, public or semi-public purposes.
 4. Repairs of a minor nature or minor alterations which do not change the use occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building shall not require a Zoning Permit.
- B. **Application for a Zoning Permit:** Application for a Zoning Permit shall be made by a fee owner and other owners or an owner(s) designated representative in writing upon a form furnished by the Zoning Administrator, including the following information either on the application form, supporting documentation or on a site plan:
1. The location, shape, area and dimensions for the parcel(s), lot(s) or acreage, and all existing improvements on the lot or parcel delineated on a plot of survey prepared by a licensed Land Surveyor, including rights-of-ways easements sewer and water, drainage, large trees six (6) inches or more in diameter, important natural features, including shorelines, surface water features, wetlands and topography at two (2) foot contour intervals.
 2. The location of the proposed construction, upon the parcel(s), lot(s) or acreage affected, including all buildings and structures, e.g. walls, fences, berms, walks, drives, roads, parking areas, landscaping, buffers and utilities.
 3. The dimensions, height and floor area of structures, including the perimeter pattern of foundation ("footprint") for each building and structure.

4. The type of the proposed construction, alteration, or repair and the intended use, including buildings and structures, water supply and wastewater disposal systems, surface and underground drainage and impoundment system, public utilities, offices, working areas and recreation rooms.
 5. The proposed number of dwelling units, sleeping rooms in each dwelling unit, occupants per dwelling unit and employees, customers, other uses (commercial, industrial, public and semi-public) and the floor area dimensions of each.
 6. The present use of any structure affected by the construction or alteration.
 7. All yard, open land area and parking space dimensions, if applicable.
 8. The proposed plan and specifications of curb cuts, walks, drives, pullout entrance lanes, and off street parking spaces, if applicable.
 9. The proposed plan and specifications of off-street loading and unloading spaces provided, if applicable.
 10. Present zoning, proposed and required minimum setbacks, proposed and permitted maximum lot coverage and zoning of adjacent properties.
 11. Location, height, size and location of all signs, freestanding and on structures.
 12. Any other information deemed necessary by the Zoning Administrator to determine and provide for conformance to and the enforcement of this Ordinance and to assure compliance of approved site plans for special uses and planned unit developments.
 13. A statement on the potential impact of the proposed development on the present natural conditions of the lot or parcel and the impact on adjacent properties and their present and future uses.
- C. **Project Compliance Requires Issuance of Permit:** If the information included in and with the application is in compliance with these requirements and all other provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Permit upon payment of the required Zoning Permit fee.
- D. **Voiding of Permit:** Any Zoning Permit granted under this Article shall be null and void unless the development proposed shall have its first inspection within six (6) months from the date of granting the permit. The Zoning Administrator may suspend or revoke a Permit issued 1) in error prior to the starting of any building construction, but excluding site preparation, or 2) on a basis of incorrect information supplied by the applicant or his agent or 3) when construction is in violation of any of the ordinances or regulations of the Village.

Section 22.03 - Enforcement Officer. The enforcement of this Ordinance shall be administered and enforced by the Enforcement Officer designated by and responsible to the Village Council.

Section 22.04 - Duties and Powers - Zoning Administrator and Enforcement Officer. The Zoning Administrator and Enforcement Officer shall have the following powers in addition to those set forth in Section 22.03 above:

1. **Form of Application, Permits and Certificates.** The Zoning Administrator may prescribe the form of all applications, permits (including a Zoning compliance permit when required by the terms of this Ordinance), and certificates required under the terms of the ordinance. If no form is prescribed, a written document in the form of a letter requesting permission, in the case of an application stating precisely what

permission is requested, or granting permission, in the case of a permit, stating precisely what permission is granted will suffice.

2. **Receive Applications.** The Zoning Administrator will receive and examine and certify completeness of all applications for permits, certificates, variances, and all other applications required under the terms of this ordinance.
3. **Refer Applications to the Planning Commission or Board of Appeals.** The Zoning Administrator shall upon a finding that an application is complete must refer all applications for permits, certificates, variances, special use permits and any other applications to the appropriate body within twenty (20) days upon making determination that the submission is complete.
4. **Issue or Refuse Permits.** The Zoning Administrator must issue permits for constructions, alternation, and occupancy of those uses which comply with the requirements of this Ordinance, within thirty (30) days after the receipt of the application. The refusal of permit must be in writing and shall state the reasons for the denial.
5. **Issue Notice of Violation.** The Zoning Administrator or Enforcement Officer must issue a written notice of violation to each violator of this Ordinance, stating the nature of the violations. Duplicate copies of the notice must be sent to the Planning Commission.
6. **Make Recommendations.** The Zoning Administrator or Enforcement Officer may make recommendations to the Planning Commission, Board of Appeals for any action deemed necessary.
7. **Records.** The Zoning Administrator must keep records of applications, permits, or certificated issued, of variances and special use permits granted, inspections made, any report issued and notices or orders issued.
8. **Additional Duties and Powers.** The Zoning Administrator or Enforcement Officer must preform all other duties, and may exercise all other powers and privileges, as may be provided or made necessary by the terms of this Ordinance.
9. **Wave Application Documentation.** The Zoning Administrator may wave certain application requirements or other documentation required for issuance of Zoning Permit, when in the judgement of the Zoning Administrator the submission of such information is not needed to determine compliance with the terms of this Ordinance.

Section 22.05 - Fees. A schedule of fees necessary for the administration of the Ordinance shall, from time-to-time, be established by resolution of the Village Council.

Section 22.06 - Violations and Penalties. Any person who shall violate any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars or more than Five Hundred (\$500.00) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:

1. The fine for any offense which is a first repeat offense shall be not less than Two Hundred Fifty (\$250.00) Dollars, plus costs and other sanctions.
2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than Five Hundred (\$500.00) Dollars, plus costs and other sanctions. A repeat offense means a second (or

any subsequent) violation of this Ordinance (i) committed by a person within any six (6) month period and (ii) for which the person admits responsibility or is determined to be responsible.

Each day on which any violation of this Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

The imposition of any penalties or sanctions hereunder shall not exempt the offender from compliance with the requirements of this Ordinance.

ARTICLE XXIII DEFINITIONS AND USE OF TERMS

Section 23.01 - Interpretation of Language.

For the purpose of this ordinance, the following rules of interpretation shall apply to the text of this ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- G. The word "person" includes an individual, a corporation, a partnership, limited liability company, a public utility, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either. . . or," the conjunction shall be interpreted as follows:
 - (a). "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - (b). "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
 - (c). "Either... or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.

Section 23.02 - Definitions.

For the purpose of this ordinance the terms and words herein are defined as follows:

Accessory Use, Building or Structure. A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related.

Adjacent. See "Lot, Adjacent."

Adult Business II. An adult book store, adult movie theater, adult personal service business, adult cabaret, adult novelty business, massage parlor, nude modeling studio, and tattoo parlor as defined in Article XXII, Section 12.04.

Adult Book Store. An establishment having twenty (20) percent of its stock in trade books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material which exceeds twenty (20) percent of the floor area of the establishment.

Adult Cabaret. An establishment having as an activity the presentation or display of male and/or female impersonator(s), dancer(s), entertainer(s), waiter(s) or waitress(es), or employee(s), who display specified anatomical areas as defined herein, and which may or may not feature the service of food or beverage.

Adult Movie Theater. An enclosed building or room used for presenting motion picture films, video cassettes, cable television or any other visual media, having a dominant theme materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein.

Adult Novelty Business. A business which offers for sale devices which simulate human genitals or devices designed for sexual stimulation.

Adult Personal Service Business. A business having as its principal activity a person, while nude or while displaying "specified anatomical areas" (as defined herein), providing personal services for another person. Such business include, but are not limited to, modeling studios, body painting studios, wrestling studios, conversation parlors, and theatrical performances or entertainment.

Adult Use. Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually oriented entertainment.

Alley. A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alterations. Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use."

Anatomical Areas, Specified. is defined as:

- A. Less than completely and opaquely covered:
 - 1. Human genitals, pubic region;
 - 2. Buttocks, anus; and
 - 3. Female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Animal Hospital. See "Clinic, Veterinary."

Apartment. See "Dwelling, Multiple-Family."

Arcade. Any establishment which provided on its premises one (1) or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest, or amusement of any description, not including musical devices.

Architectural Features. Architectural features of a building including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

Automobile (including motor vehicles). Unless specifically indicated otherwise, "automobile" shall mean any vehicle including cars, trucks, vans, motorcycles, and the like.

Automobile (including motor vehicles) Filling Station. A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use. Parking requirements for filling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

Automobile (including motor vehicles) Repair. Major or minor repair of automobiles defined as follows:

- A. **Minor Repair.** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. **Major Repair.** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

Automobile (including motor vehicles) Repair Garage. A premise primarily used for general automobile repair wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rustproofing; and other related activities.

Automobile (including motor vehicles) Service Station. A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises overnight. Automotive service station shall not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rustproofing, high-volume of motor vehicle washing or sales of new or used cars, trucks, motorcycles or other land vehicles.

Automobile (including motor vehicles) Wash Establishment. An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

Basement. That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

Bed-n-Breakfast Inn. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation. Said facilities may include meal service.

Bedroom. Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms. Any room designated as other than a bedroom but which in the judgement of the Village Planning Commission would normally be usable for sleeping purposes shall be considered a bedroom.

Berm. See "landscaping."

Bikeway. A pedestrian or non-motorized vehicular circulation routes built according to the standards of the Village or other agency with right-of-way jurisdiction, as applicable.

Billboard. Any non-accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located. Billboards are prohibited throughout the Village.

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

Board of Appeals. The Village of Eau Claire Zoning Board of Appeals, created pursuant to the provisions of Michigan Zoning Enabling Act P. A. Act 110, of 2014.

Boardinghouse. A building, other than a hotel, where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for three (3) or more persons. A rooming house shall be deemed a boardinghouse for the purposes of this ordinance.

Buildable Area. The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this ordinance.

Building. Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall include tents, awnings, and carports; and also semi-trailers, vehicles, mobile homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

Building, Accessory. See "Accessory Use, Building, or Structure."

Building, Commercial Frontage. The length of the portion of a building facing a street abutting to the premises on which a business is located.

Building, Completely Enclosed. A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only windows and normal entrance or exit doors.

Building, Detached. A principal building surrounded by open space.

Building Height. The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and seventy-five (75) percent of the height of an "A" frame, chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

Building Line. A line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot. For the purposes of this ordinance, a minimum building line is the same as a required setback line.

Building, Principal. A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "building, accessory" and "use, principal.")

Building, Temporary. A building which is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on construction-site.

Bumper Blocks. Concrete or cement cast units located at one (1) end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles. Asphalt bumper blocks may not be used in the Village.

Buttock. Includes the anus and perineum of any person

Canopy. A suspended covering, often movable, placed above a door, window, or other entranceway. Canopies can be constructed of cloth, metal, wood, or other materials.

Caretaker Living Quarters. An independent residential dwelling unit designed for and occupied by one (1) or two (2) persons, of which at least one (1) is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

Cemetery. Land used for the burial of the dead including columbariums, crematories, and mausoleums.

Certificate of Occupancy. A certificate issued by the Village Building Official or Inspector pursuant to the Village Building Code authorizing an occupancy and/or use of land and/or a building or structure pursuant to the Village Building Code and the terms of this Ordinance.

Child Care Center. An establishment where three (3) or more children, not related by bonds of consanguinity or fostership to the family residing on the same premises, are cared for in return for remuneration. Such child care centers need not have a resident family on the premises. A child care center may also sometimes be referred to as a "nursery", "day nursery", "day care center", or "nursery school".

Church and Houses of Worship. Any structure wherein persons regularly assemble for religious activity.

Clinic, Veterinary. A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

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

Club, Health. Any establishment providing physical culture or health services, including health clubs, racquetball or tennis clubs, reducing salons, or tanning salons.

Club or Lodge, Private. A non-profit association of persons who are bonafide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this ordinance.

Cluster Development. A form of residential development where the total number of residential dwelling units may, with approval of the Planning Commission be constructed on eighty (80) percent of the total site area (or less), provided that twenty (20) percent, or more, of the total land area remains in open space protected from development through a permanent easement or other form of dedication acceptable to the Planning Commission.

Collector Street. See "street, collector."

Commercial, Vehicle. A truck or motor vehicle with cab and chassis and with a stake, rack, body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle which has a commercial license plate and is designed to accommodate a body length in excess of nine (9) feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors and trailers.

Common Open Space. A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, P.A. 59 of 1978, as amended) or an area of water, or a combination of land and water within an area for Planned Unit Development and designed and intended for the use and enjoyment of residents or occupants of the Planned Unit Development. Common open space may contain such contemporary structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the Planned Unit Development but shall not include area reserved for the exclusive use or benefit of any individual tenant or owner, including any dedicated street or other public right-of-way; driveway, parking area, loading and storage area, and area reserved for non residential related use.

Commission. Means the Planning Commission of the Village of Eau Claire.

Comprehensive Plan. See "Land Use Plan"

Conditional Use. A use which is subject to conditional special approval by the Village Planning Commission. A conditional use may be granted only when there is a specific provision in this ordinance. A conditional use is not considered to be a nonconforming use and is distinct from a special land use. See "special land use."

Condominium. An ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all of the occupants, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other related common elements, together with individual ownership in fee of a particular dwelling unit in such building. Condominiums shall be subject to the regulations set forth in Michigan Public Act 59 of 1978, as amended.

Convalescent Home. See "Nursing Home."

Co-op (cooperative) Housing. A multiple dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

Corner Lot. See "Lot, Corner."

Cul-de-sac. See "Street, Cul-de-sac."

Curb Cut. The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

Day Care Center. See "Child Care Center."

Deck. An open, horizontal platform attached to the rear or side of the principal residential structure and that is used for outdoor leisure or recreational activities. The platform shall not be enclosed by a roof or walls or other screened or framed enclosure.

Density - Planned Unit Development. The relationship of the total number of dwelling units contained in the Planned Unit Development to the Gross Acreage of the Planned Unit Development; dwelling units per gross acre.

Development Plan - Planned Unit Development. The application and any site, facade, or other engineering drawings including a property survey map and drawing necessary for submission, review and approval of a Planned Unit Development in accord with Article XXI..

Distribution Center. A use which typically involves both warehouse and office/ administration functions, where short and/or long-term storage takes place in connection with the distribution operations of a wholesale or retail supply business. See also "warehouse."

District. A portion of the Village within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this ordinance.

Downtown Development Authority. The body appointed by the Village Council pursuant to The Downtown Development Authority Act, P.A. 197 of 1975, as amended and assigned certain powers to review facade development and redevelopment plans pursuant to the terms of this Ordinance.

Drive-Thru Service. A business activity so developed that its retail or service character provides a driveway approach and waiting spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Dumpster. A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

Dwelling. A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one (1) family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this ordinance.

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

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and

- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.
- D. Is equal to or greater than twenty-four (24) feet in width at least one-half of the depth of the dwelling unit.

Also refer to "dwelling, one family" or "single-family."

Dwelling, Mobile Home. A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this ordinance. A mobile home is a type of manufactured housing. Also see "dwelling, one family or single-family." After the date of adoption of this Ordinance, all mobile homes not meeting the definition of a manufactured dwelling shall be located within a designated mobile home park

Dwelling, Multiple-Family. A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwellings units include the following:

- A. **Apartment.** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit.** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

Dwelling, One-Family or Single-Family. A detached building containing not more than one (1) dwelling unit designed for residential use, provided:

- A. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
- B. It has a minimum width across front, side and rear elevations of twenty-four (24) feet and complies in all respects with the Village 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 Village Building Code, then and in that event, such federal or state standard or regulation shall apply; further provided that the provisions of this section shall not have the effect of making one (1) family dwellings, which exist as of the effective date of this ordinance, nonconforming.
- E. It is firmly attached to a permanent foundation constructed on the site in accordance with the Village Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required.

- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal 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, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang 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; has not less than two (2) exterior doors with the second one (1) being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the building official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the zoning board of appeals within a period of thirty (30) days from the receipt of notice of said building official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single-family "dwelling" as well as the character, design and appearance of one (1) or more residential dwellings to the extent of less than twenty (20) percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the Village.

- G. The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required herein.
- H. The dwelling complies 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, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. The foregoing standard 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 the ordinance of the Village pertaining to such parks.
- J. 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.

Dwelling, Two-Family or Duplex. A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

Dwelling Unit. One (1) or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one (1) family for living, cooking, and sleeping purposes.

Dwelling Unit, Single-Family - Attached or Townhouse. A townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as "row houses."

Drive-In Theater. An open-air theater constructed and operated at an established location, without cover or roof, displaying motion pictures for the general public who view the screen or stage while seated in a vehicle. The term "drive-in theater" as used herein shall include the entire premises upon which such theater is constructed and operated, including parking areas and all other facilities accessory to such business.

Duplex. See "dwelling, two-family or duplex."

Earth-Sheltered Home. A complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

Easement. Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements which give public or private utility companies the right to use land for the construction and maintenance of utilities.

Efficiency Unit. See "Dwelling, Multiple-Family."

Erected. Includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

Essential Services. The erection, construction, alteration or maintenance by public or quasi-public utilities or municipal departments or village-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities.

Excavation. The removal or movement of soil, sand, stone, gravel, or fill dirt, except for common household gardening, farming, and general ground care.

Facade Plan. A sketch or other illustration showing the exterior surface of a building including all architectural features, surface materials and color or colors of all surface materials submitted pursuant to the requirements of Article XVII.

Family. The term family includes:

- A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one (1) additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one (1) dwelling unit, whose relationship is of a continuing, nontransient, domestic character, and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge,

coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

Family Day Care Home. See "State Licensed Residential Facility."

Farm. All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bonafide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this ordinance, farms shall not include establishments for keeping or raising fur-bearing animals, riding or boarding stables, commercial dog kennels, game fish hatcheries, piggeries, stockyards, or gravel or sand pits, unless such establishments are combined with other bonafide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption by persons residing on the premises.

A farm permitted by this ordinance is not intended nor implied to permit trucking, equipment and/or sales, contractor yards or any other activities other than those incidental to the bonafide farm.

Fence. A permanent or temporary unroofed barrier enclosing or bordering a plot of land or portion thereof composed of suitable manmade materials for the purpose of preventing or controlling entrance, confining within, or marking a boundary.

Fill, Filling. The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

Flag. A banner of distinctive design used as a symbol of a nation, state or other governmental entity or a non-profit organization.

Floor Area. The area of a building defined as follows:

- A. **Floor Area, Gross.** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- B. **Floor Area, Net.** See "floor area, usable residential" and "floor area, usable nonresidential."
- C. **Floor Area, Usable Residential.** The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. **Floor Area, Usable Nonresidential.** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which is used for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of usable nonresidential floor area.

Foster Care Home. See "state licensed residential facility."

Foster Child. A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

Fraternal Organization. See "club."

Front Lot Line. See "lot line, front."

Front Yard. See "yard, front."

Garage, Private. An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

Garage, Public. Any building or premise, other than junkyard, where more than one (1) motor vehicle is stored for compensation.

Garage, Repair. See "Automobile Repair Garage."

Gas Station. See "Automobile Filling Station" and "Automobile Service Station."

Golf Course or Country Club. The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

Golf Driving Range. An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

Grade. A grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Greenbelt. See "Landscaping."

Gross Acreage - Planned Unit Development. Shall include all land area occupied by the Planned Unit Development and any portions of said Planned Unit Development lying within an existing public right-of-way or highway.

Group Homes or Day-Care. See "State Licensed Residential Facility."

Gym or Gymnasium. A room or building equipped for gymnastics, exercise, or sport.

Hazardous Substances. Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

Height, Building. See "Building Height."

Highway. See "street."

Home Occupation - Major. An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a permitted, accessory or appurtenant structure of a residential dwelling unit which does not alter the exterior

of the property or adversely affect the general residential use or character of the neighborhood. Major Home Occupations are evidenced by an increased amount of customer traffic, delivery or other vendor traffic, or other commercial activity which is not normally intended as a permitted use of the property, but which by their low level of activity or use do not adversely affect others.

Example businesses included the sales of any goods or the provision of services and includes, but not limited, to sales of health products and vitamins, cookware, novelty items (typically made by the resident of the home occupation), barber and beauty shops, massage and physical therapy centers, doctors and dentist offices, offices of lawyers and similar professions, and other similar business. In such cases these major home occupations, where allowed as special uses approved by the Village Council at which time appropriate conditions may be placed on the business operation to assure compatibility of the business operations with neighborhood residential needs.

Home Occupation - Minor. 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.

Minor home occupations are characterized as computer and telephone based businesses where there is no or limited customer or client traffic into the home occupation. Examples of a minor home occupations included, but not limited to, real estate agent, insurance sales agents, consultants, financial planners, stockbrokers, etc.

Hospital. Means an institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

Hospital, Veterinary. See "Clinic, Veterinary."

Hotel. A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty (50) percent of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels customarily provide services such as desk service, maid service, laundering of linens, etc.

Ingress and Egress. A driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway which allows pedestrians to enter or leave a parcel of property, a building, or another location.

Junk. Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

Junkyard - Recycling Facility. An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

Kennel. Any lot or premises on which three (3) or more dogs, cats, or other domestic animals six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, grooming or as pets; and may offer provisions for minor medical treatment including animal shelters.

Laboratory. A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

Lake. Any body of water, natural or artificial, defined as "inland lake or stream" in the Inland Lake and Stream Act of 1972, P.A. 1972, No. 346, as amended.

Lake Lot. See "lot, lake."

Landfill. Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

Landowner or Applicant - Planned Unit Development. The legal or beneficiary owner or owners of the land proposed to be included in a Planned Unit Development or the holder of an option or contract to purchase the land subject to the proposed Planned Unit Development.

Landscaping. The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

- A. **Berm.** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this ordinance.
- B. **Greenbelt.** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this ordinance.
- C. **Ground Cover.** Low-growing plants that form a dense, extensive growth after one (1) complete growing season, and tend to prevent weeds and soil erosion.
- D. **Hedge.** A row of closely planted shrubs or low-growing trees which form a continuous visual screen, boundary, or fence.
- E. **Screen or Screening.** A wall, wood fence, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.
- F. **Shrub.** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.
- G. **Sod.** A piece from the surface of grassland containing the grass support soil, and the healthy roots, extracted with the intention of replanting in another area for the purpose of establishing lawn areas. Sod is grown on mineral soil (commonly referred to as "topsoil") or peat, and must be a minimum of two (2) years old. The grasses permitted for use in sod for landscaped lawns should be a blend that reflects the current standards in the industry and has been demonstrated to prosper under local conditions.

- H. **Tree.** A self-supporting woody, deciduous or evergreen plant with a well-defined central stem which normally grows to a mature height of fifteen (15) feet or more in Berrien County, Michigan.
1. **Deciduous Tree.** A variety of tree that has foliage that is shed at the end of the growing season.
 2. **Evergreen Tree.** A variety of tree that has foliage that persists and remains green throughout the year.
- I. **Ornamental Tree.** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about twenty-five (25) feet or less.
- J. **Shade Tree.** A deciduous tree which has a mature crown spread of fifteen (15) feet or greater in Berrien County, Michigan, and has a trunk with at least five (5) feet of clear stem at maturity.

Livestock. Horses, cattle, sheep, goats, and other domestic animals normally kept or raised on a farm.

Loading Space, Off-Street An off-street space of definite size and dimensions in accordance with the requirements of this ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

Local Street. See "street, local or minor."

Lot (Or Zoning Lot or Parcel). For the purposes of enforcing this ordinance, a lot is defined as a piece of land under one (1) ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A. A single lot of record.
- B. A portion of a lot of record.
- C. A combination of complete lots of record, or portion thereof. A piece of land described by metes and bounds.

Lot, Adjacent. Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

Lot Area. The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

Lot Area, Gross. The net lot area plus one-half (½) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

Lot, Contiguous. Lots adjoining each other.

Lot, Corner. A lot of which at least two (2) adjacent sides abut their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on

the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

Lot Coverage. The part or percent of the lot that is occupied by buildings or structures.

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

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 shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one (1) or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

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

Lot, Lake. A lot having any frontage directly upon a lake, natural or man-made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.

Lot Lines. The lines bounding a lot as follows:

- A. **Front Lot Line.** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit.
- B. **Rear Lot Line.** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.
- C. **Side Lot Line.** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot Of Record. A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Berrien County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Berrien County Register of Deeds.

Lot Split and Consolidation. The dividing or uniting of lots by virtue of changes in the deeds in the office of the Berrien County Register of Deeds and/or the Village Treasurer. The division of lots shall take place in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended and the Village of Eau Claire Subdivision Regulations Ordinance.

Land Division. The act of creating a lot or parcel of land defined by a metes and bounds description pursuant to the provisions of the Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) or the act of creating a condominium plat pursuant to the provisions of the Condominium Act, P.A., 58 of 1978, as amended, for the purpose of recording same with the Register of Deeds of Berrien County. (See: Land Division Act and Condominium

Act.). For the purpose of this Ordinance any and all Land Division and Condominium plats will be considered a Planned Unit Development and submitted for approval according to the procedure of the Village of Eau Claire Land Division Ordinance.

Land Division Act. The Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) and any ordinance adopted by the Village of Eau Claire in furtherance of Village duties required of the act

Land Use Plan. A document which is prepared under the guidance of the Village of Eau Claire Planning Commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the Village.

Lot Width. The straight line distance between the side lot lines, measured at the two (2) points where the minimum front yard setback line intersects the side lot lines.

Main Access Drive. Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

Major Street or Thoroughfare. See "Street, Major."

Manufactured Housing. See "Dwelling, Manufactured."

Massage. Manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating, through the use of physical, mechanical, or other device, of the body of another for a fee.

Massage Parlor. An establishment wherein private massage is practiced used or made available as a principal use of the premises.

Mezzanine. An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third ($\frac{1}{3}$) of the floor area of the story in which the level or levels are located. A mezzanine shall be deemed a full story if the vertical distance from the next floor below the mezzanine to the next floor above is twenty-four (24) feet or more.

Minor Street. See "Street, Local or Minor."

Mobile Home. See "Dwelling, Mobile Home."

Mobile Home Park. A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

Mobile Home Lot. An area within a mobile home park which is designated for the exclusive use of the occupants of a specific mobile home.

Motel. A series of attached, semi-detached, or detached rental units which mayor may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty (50) percent plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use office furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

Motor Home. A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile home.

Municipality. The Village of Eau Claire, Berrien County, Michigan

Natural Features. Soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

Nonconforming Building. A building or portion thereof that was lawfully in existence at the effective date of this ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this ordinance pertaining to buildings in the zoning district in which it is located.

Nonconforming Lot. A lot which was lawfully in existence at the effective date of this ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this ordinance pertaining to lots in the zoning district in which it is located.

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

Nonconformity. Any structure, lot, or use of any lot, land or structure, which does not conform at the time of adoption of this ordinance or any amendment thereto, to the regulations for the district in which it is located.

Nude Modeling Studio. Any building, structure, premises or part thereof, used primarily as a place which offers as its principal activity the providing of models to displace specified anatomical areas as defined herein for artists and photographers for a fee.

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

Nursery, Day Nursery, or Nursery School. See "Child Care Center."

Nursery, Plant Material. A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see "open air business" and "roadside stand."

Nursing Home, Convalescent Home, or Rest Home. A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two (2) or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

Occupancy, Change. A discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

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

Off-Street Parking Space. See "Parking Space" and "Parking Lot, Off-Street."

Open Air Business. Any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

- A. Retail sales of garden supplies and equipment, including but not limited to trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B. Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.
- C. Various outdoor recreation uses, including but not limited to tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D. Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.

Open Space. That part of a zoning lot, including courts and/or yards, which is open and unobstructed from its lowest level to the sky, and is accessible to all residents upon the zoning lot.

Parcel. See "lot."

Parking Lot, Off-Street. An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

Parking Space. An area of definite length and width as designated in this ordinance for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

Party Wall. A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one (1) building from another and that is in joint use by each building.

Person. An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

Performance Standard. A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

Pet. A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

Planned Unit Development. May include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this ordinance using innovative and effective planning approaches.

Planning Commission. The Village of Eau Claire Planning Commission created pursuant to the provisions of Michigan Public Act 285 of 1931.

Poultry. Means any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

Premises. A lot or group of lots with one (1) or more buildings which functions as a single use, is under the same ownership or control and is not divided by a public street. Multiple tenants of a single premises may share common entranceway and off-street parking. Examples of premises include a shopping center, a multiple-family apartment complex, and a educational or medical campus.

Principal Use. See "Use, Principal."

Private Street or Road. See "street."

Property Line. The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also "lot line."

Public Utility. Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: Electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

Rear Lot Line. See "Lot Line, Rear."

Recreational Land. Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

Recreational Vehicle. A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, trailer which is designed for private recreational or recreational travel use.

Refuse. The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

Restaurant. 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:

- A. **Restaurant, Carry-Out.** A restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- B. **Restaurant, Drive-In.** A restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C. **Restaurant, Drive-Through.** A restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- D. **Restaurant, Fast-Food.** 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 the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.

E. **Restaurant, Standard.** A restaurant whose method of operation involves either:

1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or

2. 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.

F. **Bar / Lounge.** 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 an establishment includes a bar or lounge and a separate dining facility, the establishment shall be considered a bar/lounge if more than fifty (50) percent of the usable floor area of the entire establishment is used for the bar/lounge.

Right-of-Way. As defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

Roadside Stand. A temporary or permanent building primarily operated for the purpose of seasonally selling agricultural products.

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

Rooming House. See "Boardinghouse."

Satellite Antenna. An accessory structure which at its widest dimension is in excess of thirty-six (36) inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

Setback. The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The "minimum required setback" is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this ordinance (see definition of "yard").

Sexual Activities, Specified. Are defined as:

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse, or sodomy; and

C. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

Sexual Intercourse. Includes fellatio, cunnilingus, anal intercourse, or any other intrusion, however light, of any part of a person's body, or of any object into the genital or anal openings of another's body.

Side Lot Line. See "Lot Line, Side."

Sidewalk. A pedestrian or non-motorized vehicular circulation routes built according to the standards of the Village or other agency with right-of-way jurisdiction, as applicable.

Sign. Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designated to be visible from outside any building or structure in which, upon which, or attached to which it may be located.

Sign, Accessory. A sign which pertains to the principal use of the premises upon which such sign is located.

Sign, Appendage. A sign that is intended to draw attention to one (1) or more of various services, items for sale, contests, etc., and is attached as an appendage to an accessory sign, sign support or any part of a sign structure. Appendage signs are prohibited throughout the Village.

Sign Area. The entire area within a circle, triangle, rectangle or other geometric shape enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material, graphic or color forming an integral part of the display or message, or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed, if no advertising matter is placed thereon.

Sign, Banner. A sign on paper, cloth, fabric or other combustible material of any kind, either with or without frames.

Sign, Billboard. A non-accessory sign which makes anything known to the general public, and on which a display can be posted, painted or otherwise affixed in a manner which is readily changed. Billboards are prohibited in the Village.

Sign, Bulletin Board. A sign with temporary or replaceable letters or characters, used to announce dates of functions or activities.

Sign, Construction. A sign advertising a project under development, erected for the period of construction, identifying its developers, contractors, engineers, brokers and architects.

Sign, Directional. A sign, the primary purpose of which is to expedite the flow of vehicular and/or pedestrian traffic to, from and within a site.

Sign, Electronic Message Board. A sign that uses lights to display messages, such as, but not limited to, the current time, temperature, and/or date of the immediate environment.

Sign Erector. Any person engaged in the business of erecting, constructing, altering, or removing signs on a contractual or hourly basis.

Sign, Flashing. A sign that is intermittently illuminated or reflects light intermittently from either an artificial source or from the sun.

Sign, Freestanding. A sign supported by one (1) or more uprights, poles, pylons or braces placed in or upon the ground and not attached to any building or other structure.

Sign Grade Means. The average elevation of an area within a radius (of the sign base) equal to two (2) times the height of the sign.

Sign, Handicapped. A sign limited to indicating that off-street parking is reserved for the physically handicapped, or a sign which is limited to indicating facilities for the physically handicapped.

Sign, Illuminated. A sign which has characters, letters, figures, or designs which are illuminated either internally or with external shielded lights.

Sign, Institutional. A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institutions, and the announcement of its services or activities.

Sign, Interior. A sign which is visible from any public street, sidewalk, alley, park or public property and located within a building.

Sign, Marquee. A sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building.

Sign, Maximum Height. Sign height shall be measured from grade or sidewalk to the highest edge of the sign surface or its projecting structure.

Sign, Moving. A sign that has motion either constantly or at intervals or that gives the impression of movement through intermittent, flashing, twinkling, or varying intensities of illumination.

Sign, Non-Accessory. A sign which does not pertain to the principal use of the premises on which such sign is located.

Sign, Occupational. A sign denoting only the name and profession of an occupant in a commercial building or public institutional building.

Sign, Portable. A sign, sign board, or banner which is not permanently anchored or secured to either a building, structure or the ground; or any sign attached to a trailer or other vehicle not accessory to the vehicle or its use, but used with the express intent of advertising.

Sign, Projecting. A sign so constructed and erected as to be attached at one (1) end to a building, metal pole or other structure, and projecting therefrom.

Sign, Roof. A sign which is erected, constructed and maintained on or above the roof of a building or any portion thereof.

Sign, Subdivision / Development. A sign or entranceway structure, listing the names and addresses only of the establishments occupying a development, subdivision or condominium. The erection of such identification signs is so intended to assist the public in locating establishments within its immediate area and shall be placed upon property within the development or subdivision.

Sign, Temporary. A sign intended to be displayed for a limited period of time, including decorative displays for holidays, special events, political signs, real estate signs, or public demonstrations.

Sign, Wall. A sign attached to, painted on, inscribed, or otherwise set upon the exterior wall or surface of any building. A mural is considered a wall sign. A sign painted or inscribed on a canopy shall also be considered a wall sign.

Site Plan. A sketch or other illustration containing information required for the submission, review and approval of a zoning matter where a site plan is required pursuant to the requirements of Article XVII.

Sodomy. Means sexual bestiality.

Special Event. An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit village community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two (2) weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

Special Land Use. Uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district or districts but upon due consideration of the impact on each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such special land uses may be permitted following review and approval by the by the Planning Commission.

Stable, Private. means a private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

Stable, Public. A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

State Licensed Residential Facility. Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

A. **Adult Foster Care Facility.** A governmental or nongovernmental establishment having as its principle function the receiving of adults, eighteen (18) years of age or older, for foster care in accordance with 218 of 1974, as amended, and the adult foster care administrative rules as administered by the Michigan Department of Social Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. The following four (4) types of adult foster care homes are provided for by these rules:

1. **Adult Foster Care Family Home.** A private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
2. **Adult Foster Care Small Group Home.** An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
3. **Adult Foster Care Large Group Home.** An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.

4. **Adult Foster Care Congregate Facility.** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.

B. **Foster Family Home.** A private residence that houses four (4) or fewer foster children, up to age nineteen (19), under constant child care and supervision. Under Public Act 116 of 1973, a foster family home does not require local zoning approval before being licensed by the department of social services.

C. **Foster Family Group Home.** A private residence that houses five (5) or six (6) foster children, up to age nineteen (19), under constant care and supervision. Under Public Act 116 of 1973, a foster family group home requires local zoning approval before being licensed by the department of social services.

State Equalized Valuation. The value shown on the Village assessment roll as equalized through the process of state and county equalization.

Storage. The depositing of material, products for sale or use, vehicles, or other items for a period greater than twenty-four (24) hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

Story. That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area to at least fifty (50) percent of the usable floor area of the floor immediately below it.

A **mezzanine** shall be deemed a full story when it covers more than one-third ($\frac{1}{3}$) of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.

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

Story, Half. The uppermost story lying under a pitched roof, the usable floor area of which does not exceed two-thirds ($\frac{2}{3}$) of the floor area of the uppermost full story. The usable floor area of a half story shall be at least one hundred sixty (160) square feet with a minimum clear height of seven (7) feet, six (6) inches.

Street. A public or private street, road or thoroughfare intended primarily to provide vehicular circulation and access to abutting property. Various types of streets are defined as follows:

- A. **Collector Street.** A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.
- B. **Cul-de-sac.** A street that terminates in a vehicular turnaround.
- C. **Local or Minor Street.** A street whose sole function is to provide access to abutting properties.
- D. **Major Street.** A street that carries high volumes of traffic and serves as a main avenue through or around the Village. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this ordinance, major streets shall include those streets designated as "county primary," "county local" or "major street."

- E. **Private Street or Road.** A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Village, County, State or Federal Government.
- F. **Public Street or Road.** A street or road, the right-of-way and improvements of which have been accepted for maintenance by the Village, County, State or Federal Government.

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

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having location [at] such location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

Structure, Accessory. See "Accessory Use, Building, or Structure."

Subdivision. For the purposes of this Ordinance the term subdivision included any act which is taken to record the division of a lot or parcel of land pursuant to the provisions of the Michigan Land Division Act or Condominium Act.

Subdivision (Land Division) Plat. The division of a tract of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Land (Subdivision) Control Act, Michigan Public Act 288 of 1967, as amended, and the Village of Eau Claire Subdivision Regulations. See "Land Division."

Swimming Pool. means any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

Tattoo Parlor. A business having as its principal activity the application or placing, by any method, designs, letters, scrolls, figures, symbols, or any other marks upon or under the human skin within or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

Temporary Use or Building. See "Building, Temporary" or "Use, Temporary."

Theater. An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building. Also see "drive-in theater."

Townhouse. See "Dwelling Unit, Single-Family Attached" or "Townhouse."

Toxic or Hazardous Waste. Waste or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. An increase in mortality, or
- B. An increase in serious irreversible illness, or

- C. Serious incapacitating, but reversible illness, or
- D. Substantial present or potential hazard to human health or the environment.

Trailer. See "Recreational Vehicle"; "Dwelling, Mobile Home"; and "Utility Trailer."

Transition. The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

Unit, Condominium. The descriptor for a lot or specific unit for occupancy in a condominium plat designed to be conveyed under single ownership and having a individual property tax code identification number (in a land division (subdivision) plat a lot is equivalent to a condominium unit).

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

Use, Accessory. See "Accessory Use, Building, or Structure."

Use, Conditional. See "Conditional Use."

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

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

Use, Special Land. See "Special Land Use."

Use, Temporary. A use permitted to exist during a specified period of time under conditions and procedures as provided in this ordinance.

Utility Room. A room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

Utility Trailer. A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

Variance. A modification of the literal provisions of the zoning ordinance in accordance with the provisions herein in cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three (3) elements are present in the case. A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance.

Veterinary Hospital. See "Clinic, Veterinary."

Village. The Village of Eau Claire, Berrien County, Michigan.

Village Council. The Village Council of the Village of Eau Claire, Berrien County, Michigan.

Wall, Obscuring. A masonry structure of definite height and location to serve as an opaque screen in carrying out the requirements of this ordinance.

Wall, Retaining. A structural mass which is designed and used to resist lateral pressures of soil behind it and is designed to be safely supported by soil beneath it.

Warehouse. A building used for short- and/or long-term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing. See also "distribution center".

Wholesale Sales. On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

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

Wireless Communications, Attached 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.

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.

Wireless Communication, 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. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this ordinance. The minimum required setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance.

- A. **Yard, Front.** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. **Yard, Rear.** A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one (1) rear yard.
- C. **Yard, Side.** A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

Zoning Official. The official assisting Village Council, Village Manager, Planning Commission and Zoning Board of Appeals in administering the regulations of this ordinance.

**ARTICLE XXIV
SEVERABILITY, EFFECTIVE DATE AND ADOPTION**

Section 24.01 - Severability and Validity. This Ordinance and the various parts, sections, subsections and clauses thereof, are (hereby) declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, (it is hereby proposed that) the remainder of this ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, or clause is adjudged unconstitutional or invalid as applied to a particular property, building or other structure, (it is hereby provided that) the application of such portion of the Ordinance to the property, building or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing a Cluster Development, Planned Unit Development or any variance, special use, nonconforming use, compliance permit, occupancy permit, site plan approval, or certificate of nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition of limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision hereof, to protect the public health, safety and welfare and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

Section 24.02 - Conflicting Ordinances. Ordinance No. 1978-45 adopted May 1, 1978 "*Zoning Ordinance of the Village of Eau Claire*" is expressly amended in its entirety and all other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent they conflict with this Ordinance.

Section 24.03 - Effective Date. This Ordinance shall become effective on April 29, 2015 after publication of notice of adoption.

Section 24.04 - Adoption. Public Hearing having been duly held on March 23, 2015 by the Planning Commission this Comprehensive Zoning Ordinance Amendment was duly adopted at a regular meeting of the Village Council of the Village of Eau Claire, Berrien County, Michigan on April 20., 2015.

Virginia Gonzalez
Village President

Pam Anstiss
Village Clerk