

Article I In General

Section 100 Title

This Ordinance shall be known and may be cited as the VILLAGE OF SHEPHERD ZONING ORDINANCE.

Section 101 Purpose

This chapter's provisions are established pursuant to the authority conferred by the City or Village Zoning Act, Act 207 of 1921, as amended and other Public Acts of the State of Michigan. As described in Public Act 207 of 1921, the purpose of a zoning ordinance is to:

1. Meet the needs of the state's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land.
2. Insure that uses of the land shall be situated in appropriate locations and relationships.
3. Limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities.
4. Facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs.
5. Promote public health, safety, and welfare.

Section 102 Rules of Construction

The following rules of construction apply to the text of this chapter:

1. The particular shall control the general.

2. In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A building or structure includes any part thereof.
6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
7. The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or," "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, provisions or events may apply singly or in any combination.

c. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

9. Terms not defined in **Article II** shall have the meaning customarily assigned to them.

10. "Village" shall refer specifically to the Village of Shepherd.

Section 103 Vested Rights

Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification of any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

Section 104 Severance Clause

Sections of this chapter shall be deemed to be severable and should any section, paragraph or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 105 Effective Date

The following zoning ordinance was approved by the Village Planning Commission on Jan.21 , 2002, following a public hearing on _____ , 2001.

The following zoning ordinance was adopted by the Village Council on Jan.21 __ , 2002, following a public hearing on' _____ , 2001.

A notice of adoption of this zoning ordinance was published in a newspaper with general circulation in the Village of Shepherd on _____ , 2001.

A public hearing having been held, the provisions of this chapter are hereby given immediate effect, pursuant to the provisions of Act 207 of the Public Acts of Michigan of 1921, as amended.

Article II

1. **Accessory Building or Structure:** A supplemental building or structure on the same lot as the main building occupied by or devoted exclusively to an accessory use, but not for dwelling, lodging, or sleeping purposes. Where an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.
2. **Accessory Use:** A use naturally and normally incidental and subordinate to the main use of the land or building.
3. **Adult Entertainment Business:** A business or commercial enterprise engaging in any of the following:
 - a. **Adult Arcade:** Any place to which the public is permitted or invited where coin operated or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
 - b. **Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:
 - i. Books, magazines, periodicals or other printed matter or photographs, films, motion

- picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- ii. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five percent (35%) or more of sales volume or occupies thirty-five percent (35%) or more of the floor area or visible inventory within the establishment.

- c. **Adult Cabaret:** A nightclub, bar, restaurant, or similar commercial establishment that regularly features:
 - i. Persons who appear in a state of nudity;
 - ii. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
 - iii. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are

characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or

- iv. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience of customers.

d. **Adult Motel:** A hotel, motel or similar commercial establishment that:

- i. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- ii. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- iii. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

e. **Adult Motion Picture Theater:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

f. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

g. **Specified Anatomical Areas:** Are defined as:

- i. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus, and female breast below a point immediately above the top of the areola; and
- ii. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

h. **Specified Sexual Activities:** Means and includes any of the following:

- i. The fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
- ii. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- iii. Masturbation, actual or simulated; or
- iv. Excretory functions as part of or in connection with any of the activities set forth in (i) through (iii) above.

4. **Agriculture:** The use of land or tilling of the soil, raising of trees or field crops or animal husbandry, as a source of significant income.

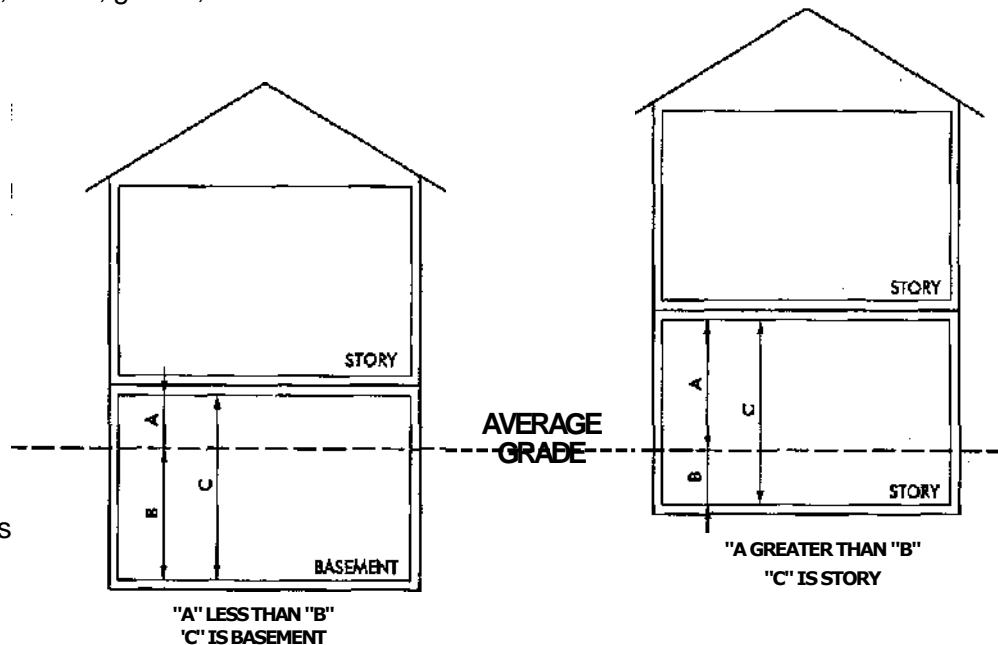
- 5. **Airport:** A parcel of land and accommodating service and/or storage buildings utilized for airplane traffic. An airport may include taxi strips, parking aprons, necessary weather indicators and appropriate lighting.
- 6. **Alley:** A public way which affords a secondary means of access to abutting property but is not intended for general traffic circulation.
- 7. **Alterations:** Any change, addition or modification in construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to as "altered" or "reconstructed".

- 8. **Architectural Features:** Architectural features of a building shall include cornices, eaves, gutters, courses, sills, lintels, bay windows, chimneys and decorative ornaments.

- 9. **Automobile Repair:** Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

- 10. **Automobile Sales Area:** Any space used for display, sale or rental of motor vehicles, in new or used and operable condition.
- 11. **Automobile Wash Establishment:** A building, or portions thereof, the primary purpose of which is that of washing motor vehicles.
- 12. **Average:** For the purpose of this Ordinance, the term, "average" will be an arithmetic mean.
- 13. **Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical

Figure 1
BASEMENT & STORY



distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see **Figure 1**).

- 14. **Bed and Breakfast Facility:** Any family occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation.

15. Bedroom: A dwelling room used or intended to be used by human beings for sleeping purposes.

16. Billboard: See Off-Premise Sign definition.

17. Board of Appeals: As used in this Ordinance, this term means the Shepherd Village Zoning Board of Appeals.

23. Building Height: The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of a mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping the ground level is measured at the average wall line (see **Figure 2**).

18. Boarding, Lodging, or Rooming House: A building other than a hotel where for more than twenty (20) days a year lodging, meals, or both are offered to more than three (3), but less than twenty-one (21) persons at a time for compensation.

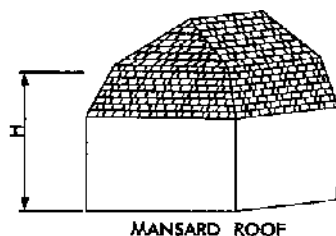
24. Bulk Station: A place where crude

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

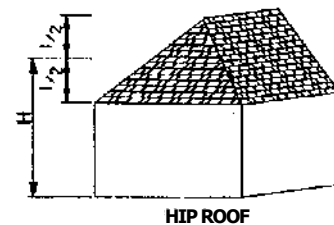
20. Building: Any structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals, or property of any kind.

21. Buildable Area: The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

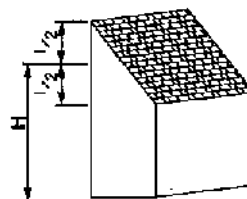
22. Buildable Width: The width of a lot left for building after required side yards are provided.



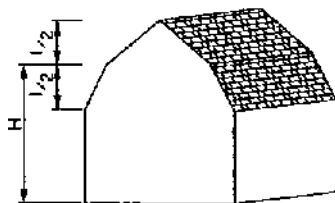
MANSARD ROOF



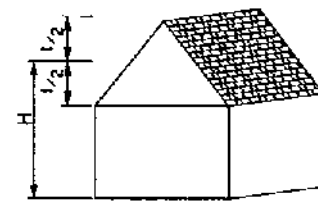
HIP ROOF



SHED OR SALT BOX ROOF



GAMBREL ROOF



GABLE ROOF

petroleum, gasoline, naphtha, benzyl, kerosene, benzene, or any other liquid are stored for wholesale purpose, where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.

25. Campgrounds: Any parcel or tract of land, under the control of any person where sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of

Figure 2 BUILDING HEIGHT

temporary living quarters for five (5) or more recreational units.

26. Child Care Organization: Means a facility for the care of children under 18 years of age, as licensed and regulated by the State under Act 116 of the Public Acts of Michigan of 1973 (MCL 722.111 et seq., MSA 25.358 (11) et seq.), as amended, and associated rules promulgated by the State Department of Consumer and Industry Services. Such organizations shall be further defined as follows:

a. Family day care home means a private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care homes include homes that give care to an unrelated minor child for more than four weeks during a calendar year.

b. Group day care home means a private home in which more than six, but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

27. Church: A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

28. Clinic: A building or group of buildings where human patients are admitted for examination and treatment by more than one professional, such as a physician, dentist, or the like, except that human patients are not lodged overnight.

29. Club: Buildings and facilities owned or operated by corporation, association, person or persons, for social, educational, or recreational purposes.

30. Condominium Unit: That portion of a condominium subdivision designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed. A condominium unit is not a lot or parcel as those terms are used in this Ordinance.

31. Drive-Through Business: Any restaurant, bank or business with an auto service window.

32. Dwelling Unit: A building or portion of a building, either site-built or pre-manufactured, that has sleeping, living, cooking and sanitary facilities and can accommodate one (1) family, either permanently or transiently. In the case of buildings that are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall any side of a dwelling unit be less than twenty (20) feet in width. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

a. Single-Family Dwelling: A detached building containing not more than one (1) dwelling unit designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.

- b. Two-Family Dwelling:** A building containing not more than two (2) separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.
 - c. Multiple-Family Dwelling:** A building containing three (3) or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.
- 33. Efficiency Unit:** A dwelling unit for one individual or small family consisting of one (1) room, exclusive of bathroom, hallway, closets, and the like providing not less than three hundred and fifty (350) square feet of usable floor area.
- 34. Erected:** Includes built, constructed, reconstructed, extension, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements that are not required for a building or structure, shall not be considered to fall within this definition.
- 35. Essential Services:** The phrase "essential services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service

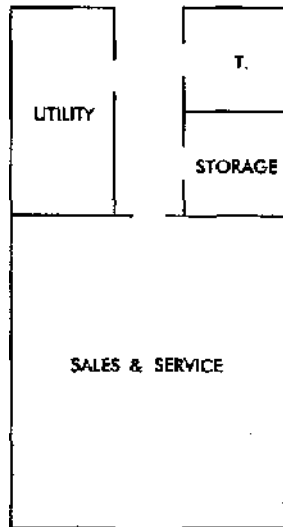
equipment. Telecommunication towers or facilities, alternative tower structures, water towers, wireless communication antennas, electric transmission towers, water or sewage treatment plants, electric substations, gas regulator stations, and other major public utility structures are not included within this definition.

- 36. Excavating:** The removal of sand, stone, gravel, or soil.
- 37. Family:** A group of two or more persons related by blood, marriage, or adoption, including foster children, together with not more than one additional person not related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit.
- 38. Farm:** All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees.
- 39. Fence:** Any permanent or temporary means, partition, structure or gate erected as a dividing structure, barrier, or enclosure, and not part of a structure requiring a building permit.
- 40. Garage-Private:** A building used primarily for the storage of vehicles for the use of the occupants of a lot on which such building is located.
- 41. Garage-Public:** A building, or part thereof, designed or used for equipping, servicing, repairing, hiring, storing, or parking motor vehicles. The

term repairing does not include the rebuilding, dismantling or storage of wrecked or junked vehicles.

42. Gas and Oil Processing Facilities: Any facility and/or structure used for, or in connection with, the production, processing or transmitting of natural gas, oil, or allied products or substances, and the injection of same into the ground for storage or disposal, not under the exclusive jurisdiction or control of the Geological Survey Division, Department of Environmental Quality or Public Service Commission; not including industrial facilities such as cracking plants, large oil storage facilities and heavy industrial operations and facilities.

43. Gasoline Service Station: Any land, building or structure used for sale or retail of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories, but not including repairing or replacing of motors, doors, or fenders, or painting motor vehicles.



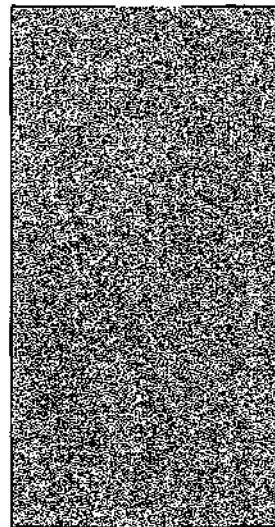
44. Grade: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be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

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

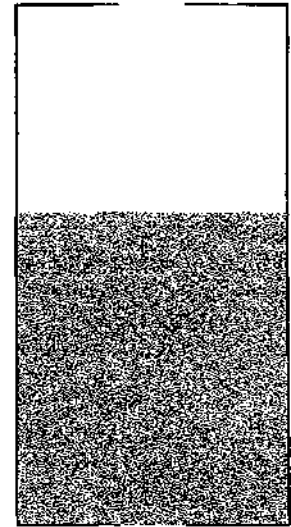
46. Ground Floor Area: The square footage of floor space measured from exterior to exterior wall, but not including enclosed and unenclosed porches, breezeways, garages, attic, basement and cellar area (see **Figure 3**).

**Figure 3
FLOOR AREA**

47. Guest House: A building which is on the



TOTAL FLOOR AREA



USABLE FLOOR AREA
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same lot or building site as the principal dwelling, and is used for the accommodation of guests of the occupants of the dwelling.

48. Hazardous Substances: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into

contact with such material or substance.

- 49. Home Occupation:** An occupation, profession, activity, or use that is clearly an incidental or 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.
- 50. Hospital:** An institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities, clinics and staff offices.
- 51. Hotel:** A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms and in which rooms there is no provision for cooking.
- 52. Housekeeping Cabin Park:** A parcel of land on which two (2) or more buildings are maintained, offered, or used for dwelling or sleeping quarters for transients, but shall not include boarding or lodging houses, bed and breakfasts, hotels or motels.
- 53. Industrial Park:** A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.
- 54. Intensive Livestock Operation:** Any farm or farm operation engaged in raising, breeding, or feeding beef or dairy cattle, horses, swine, sheep, goats, poultry/fowl, turkeys/ducks, or

other livestock in concentrations of 500 or more animal units, including any buildings, structures, excavations, or enclosed areas directly involved therein, including land used for pasture or feedlot purposes, and any animal waste storage structures, excavations, or areas directly connected to or associated with such operations.

For purposes of this Ordinance, an animal unit shall be construed as a unit of measure used to compare relative differences in the manure, pollutants, nutrients, etc., production characteristics of animal wastes, with the following equivalencies applicable to various animals.

<u>Species</u>	<u>Animal Unit</u>
Slaughter and Feeder Cattle	1.0
Mature Dairy Cattle	1.4
Horses	2.0
Swine weighing > 55 lb.	0.4
Sheep/Goats	0.1
Turkeys	0.02
Chickens w/overflow watering	0.01
Chickens w/liquid manure System	0.03
Ducks	0.2

The equivalency for types of livestock not specifically listed above shall be stated as equivalency for the type of animal which is most similar in terms of characteristics of animal wastes, as determined, if necessary, by the Board of Appeals.

- 55. Junkyard:** The use of premises or building for storage or abandonment, keeping, collecting, bailing, of inoperable automobiles, trucks, tractors and other such vehicles and parts thereof, scrap building materials, scrap contractor's equipment, tanks, cases, barrels, boxes, piping, bottles, drums, glass, rags, machinery, scrap iron, paper and any other kind of scrap or waste material.

56. Kennel, Commercial: Any lot or premises on which four (4) or more dogs or cats, four (4) months of age or older are kept temporarily or permanently for the purpose of breeding or boarding for a fee.

57. Loading Space: An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

58. Lot: The parcel of land occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width required by this Ordinance for the district in which located, but not including any area within any abutting right-of-way or traffic lane (see **Figure 4**).

a. Corner Lot: A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two (2) sides of which form an angle of one hundred thirty-five (135) degrees or less (see **Figure 5**).

b. Double Frontage Lot: A lot other than a corner lot having frontage on two (2) more or less parallel streets.

c. Front Lot Line: In the case of an interior lot abutting upon one public or private street, the front lot line shall be the line separating such lot from the street right-of-way. In the case of a corner lot, the front lot lines shall be the lines separating said lot from both streets. In case of a row of double frontage lots, one street shall be designated as the front street for all lots in the plat and in the request for zoning permit. If there are existing structures in

the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where such structures presently front. In the case of a lot having frontage upon a lake, river, or stream, the water frontage shall be considered the front lot line (see **Figure 6**).

d. Interior Lot: A lot other than a corner lot with only one (1) lot line fronting on a street.

e. Lot Coverage: The part or percent of the lot occupied by buildings or structures including accessory buildings or structures.

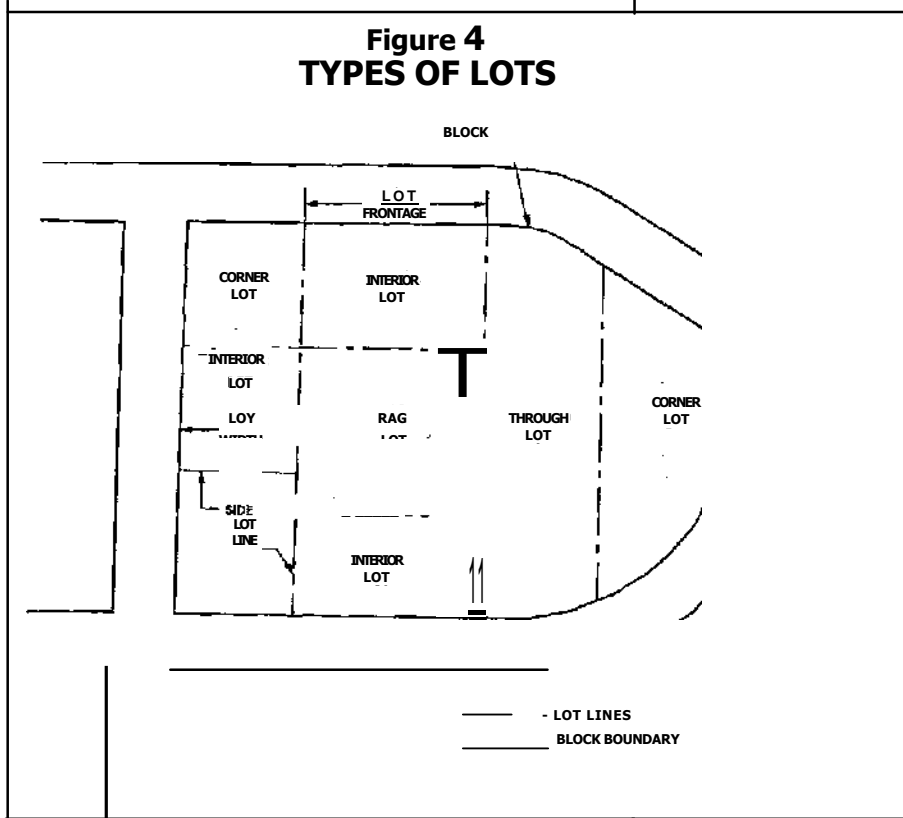
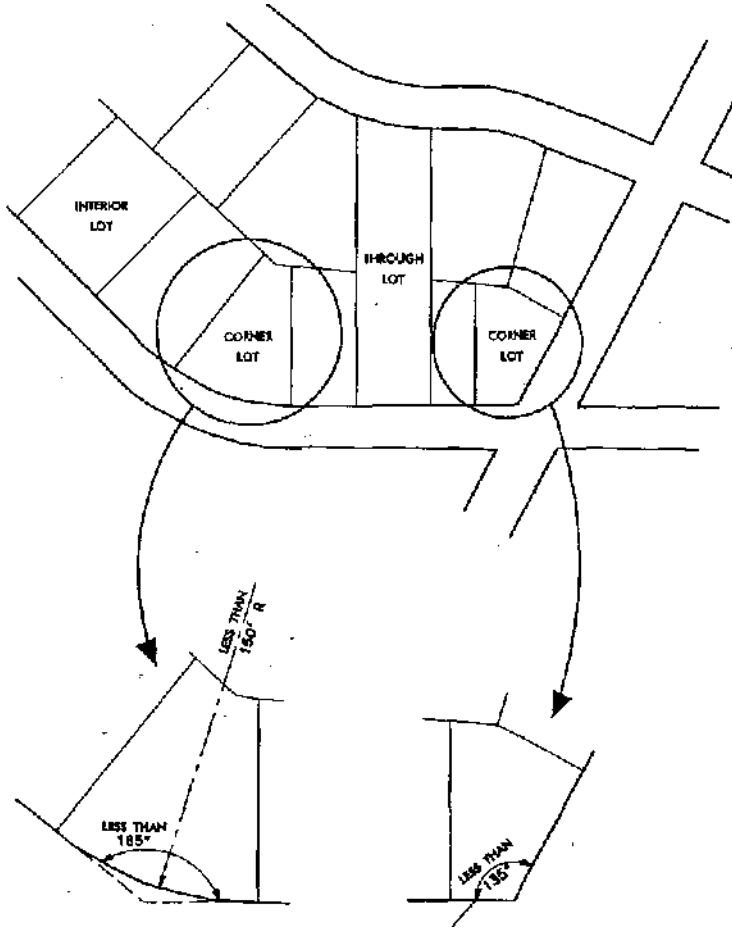


Figure 5
INTERIOR, THROUGH & CORNER LOTS



on or before the effective date of this Ordinance.

i. Lot Width: The horizontal distance between the side lot lines, measured at the two (2) points where the building setback line intersects the side lot line.

j. Rear Lot Line: The lot line being opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

k. Side Lot Line: Any lot line not a front lot line or a rear lot line. 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.

l. Waterfront Lot: A lot having frontage directly upon a river, stream, or a natural or man-made lake. The portion adjacent to the water is considered the front of the lot.

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

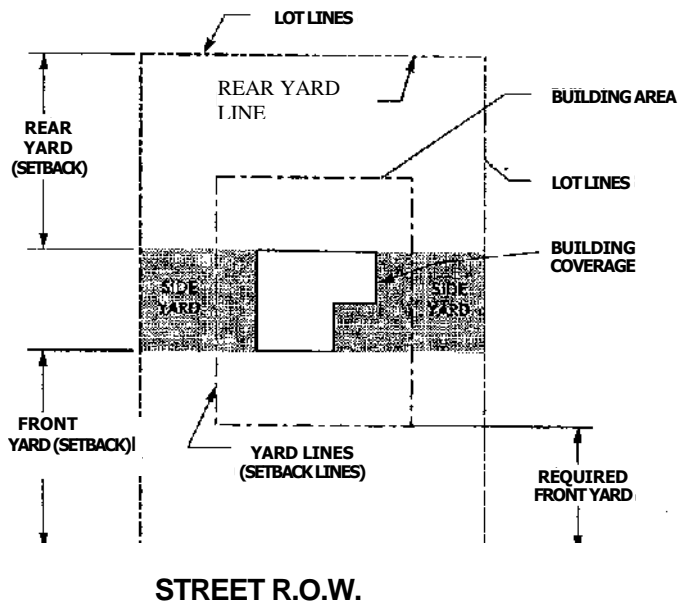
g. Lot of Premises: The parcel of land occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width required by this Ordinance for the district in which located, but not including any area within any abutting right-of-way or traffic lane.

h. Lot of Record: A parcel of land defined by a legal description and recorded in the office of the Isabella County Register of Deeds

m. Zoning Lot: A contiguous tract of land which at the time of filing for a zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership.

59. Manufactured Home: Factory-built single-family structure that is manufactured under the authority of 42 U.S.C., Sections 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act 1974), is transportable in more than one section, is built on a permanent chassis and does not have hitch, axles, or wheels permanently attached to the body frame, commonly referred to as a "double-wide."

**Figure 6
LOT LINES & SETBACKS**



- 60. Master Plan or Comprehensive Plan:** The statement of policy by the Village Planning Commission relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions.
- 61. Migratory Labor:** Temporary or seasonal labor employed in planting, harvesting, or construction.
- 62. Mobile Home:** Factory-built single-family structure that is manufactured under the authority of 42 U.S.C., Sections 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act 1974), is transportable in one section, is built on a permanent chassis and does not have hitch, axles, or wheels permanently attached to the body frame, commonly referred to as a "single-wide."

63. Motel or Motor Court: A series of attached, semi-detached or detached rental units providing overnight lodging for transients, open to the traveling public for compensation.

64. Motor Home: See Recreational Vehicle definition.

65. Native Vegetation Strip: See Greenbelt definition.

66. Non-Conforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance or Amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.

67.

Nuisance

Factor: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as noise; dust; heat; electronic or atomic radiation; objectionable affluent; noise or congregation of people, particularly at night; and passenger traffic.

68. Nursery: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits or vegetables.

69. **Off Street Parking Lot:** A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted access and egress to at least two (2) vehicles.
70. **Open Air Business:** Includes any use operated for profit, substantially in the open air, including:
- a. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.
 - b. Outdoor display and sale of garages, motor homes, mobile home, snowmobiles, farm implements, swimming pools and similar activities.
 - c. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
 - d. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses.
71. **Ordinary High Water Line:** Is defined as in the Michigan Inland Lakes and Stream Act to mean the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the soil and the vegetation. On an inland lake which has had a level established by law, it means the high-established level. On a river or stream, the ordinary high water mark shall be the ten-year flood limit line.

72. **Park:** Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.
73. **Parking Space:** An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.
74. **Pick-up Camper:** See Recreational Vehicle definition.
75. **Place of Worship:** see Church definition.
76. **Planned Unit Development (PUD):** Land under unified control which allows a development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development.
77. **Porch, Enclosed:** A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.
78. **Porch, Open:** A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.
79. **Principal Use:** The main use of land or structures, as distinguished from a secondary or accessory use.
-

80. Professional Office: The office of a professional person such as a doctor, dentist, engineer, architect, attorney, insurance or real estate agent, and the like.

81. Public Sewer Systems: A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid waste of such a nature as to be capable of adversely affecting the public health operated and maintained by the general public.

82. Public Utility: Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, water services, or sewage disposal.

83. Recreational Vehicle: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers; PROVIDED, however, that any such vehicle or unit which is forty (40) feet or more in overall length and connected to water or sewer facilities shall be considered a mobile home and shall be subject to

all regulations of this Ordinance applicable to a mobile home.

84. Resort: A recreational lodge, camp or facility operated for gain, and which provides overnight lodging and one or more of the following: golf, skiing, dude ranching, recreational farming, snowmobiling, pack trains, bike trails, boating, swimming, hunting and fishing and related or similar uses normally associated with recreational resorts.

85. Restaurant: An establishment where food and drink are prepared, served, and consumed primarily within the principal building

86. Retail and Retail Stores: Any building or structure in which goods, wares, or merchandise are sold to the ultimate consumer for direct consumption and not for resale.

87. Roadside Stand: An accessory and temporary farm structure operated for the purpose of selling local agricultural products, part of which are raised or produced on the same farm premises.

88. School: A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

89. Sexually Oriented Business: See Adult Entertainment Business.

90. Shopping Center: A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves.

- 91. Sign:** An identification, description, illustration or device affixed to, or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, person, activity, institution, or business.
- 92. Special Exception:** Approval by the Village Planning Commission of a use of land in a district that is not antagonistic to other land uses in the district when such use is specified in this Ordinance for that district upon such approval.
- 93. Stable, Commercial:** A structure used to house horses for commercial purposes. For purposes of this definition, commercial purposes include riding stables, riding academies, and the breeding, raising and/or training of horses with the expectation of sale at a profit or for racing. Commercial purposes do not include the housing and training of horses by an individual property owner or member of his

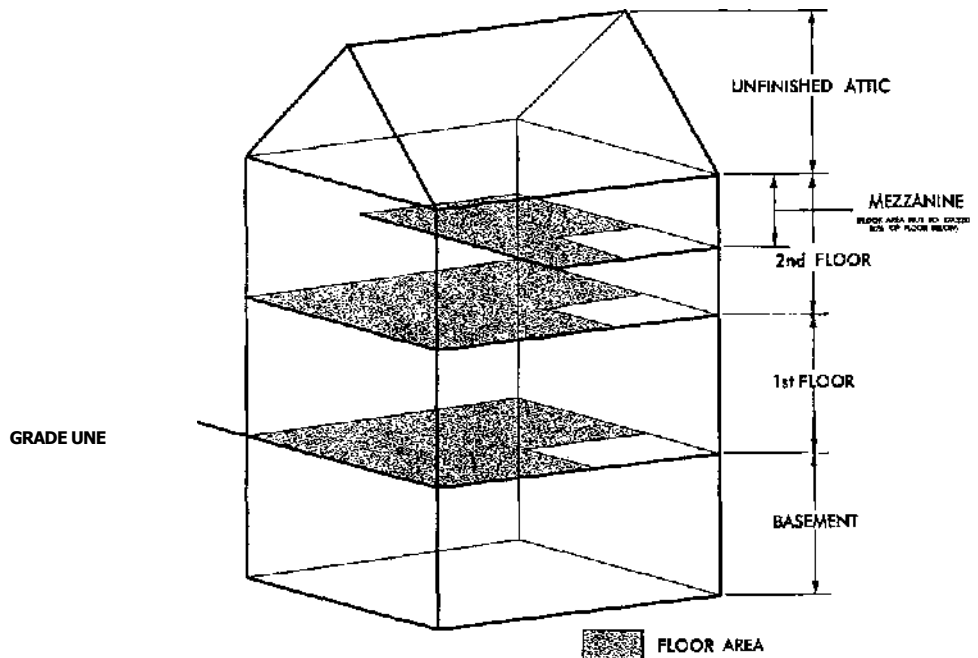
immediate family for showing or competition by the individual or member of his immediate family, provided, however, that there not be more than one horse per acre of land in the parcel.

- 94. Story:** That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it,

then the space between the floor and the ceiling next above it (see **Figure 7**).

- a. A "mezzanine" floor shall be deemed a full story only when it covers more than fifty percent (50%) of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the next above it is twenty-four (24) feet or more.
- b. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for business purposes.
- c. An attic shall be deemed a full story when more than fifty percent (50%) of the floor area has a ceiling height of at least seven feet-six inches (7'6").

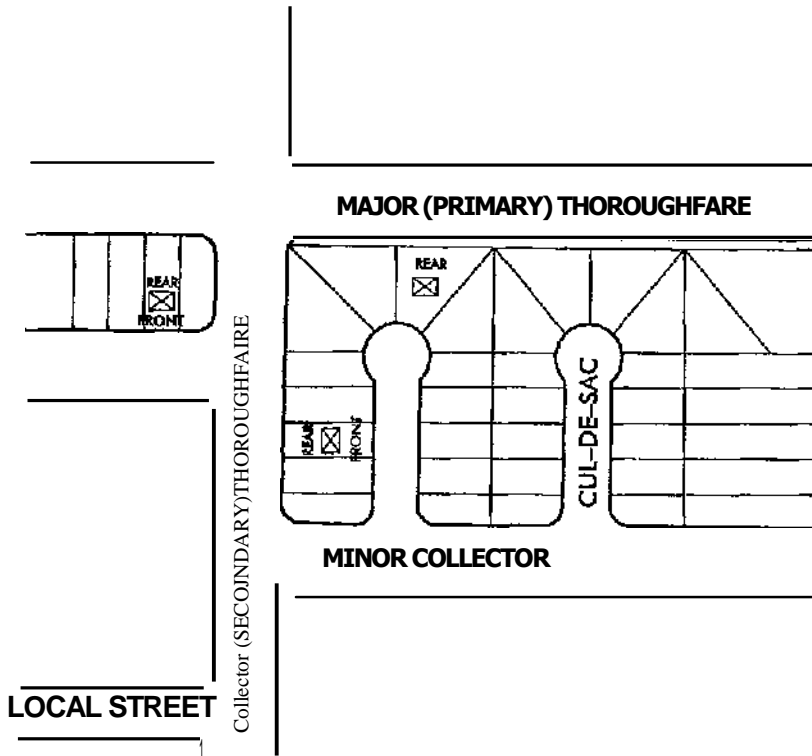
Figure 7
BASIC STRUCTURAL TERMS



95. **Street, Highway, Road:** A thoroughfare that affords the principal means of access to abutting property (see Figure 8).

towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service

Figure 8 STREET HIERARCHY



facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

98. **Swimming Pool:** Any 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.

99. **Temporary Building and Use:** A structure or use permitted by this Zoning Ordinance to exist during periods of construction of the main building or for special events.

100. **Theater, Indoor:** Any building used primarily for the presentation of dramatic spectacles, shows, movies, or other entertainment open to the public, with or without charge.

101. **Theater, Outdoor:** Any other place used for the presentation of dramatic spectacles, shows, movies, or other entertainment open to the public, with

96. **Structure:** A construction or building, the use of which requires permanent location on the ground or attached to something having permanent location on the ground.

97. **Telecommunication Tower:** All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio

or without charge, but not including athletic events.

102. Tourist Home: See Bed and Breakfast definition.

103. Trailer Coach: See Recreational Vehicle definition.

104. Travel Trailer: See Recreational Vehicle definition.

105. Undevelopable Land: Land which has soil types or a high water table condition which present severe limitations on septic tanks and tile fields and on which no septic tank and tile field can be legally constructed and to which no public sewer is extended.

106. Use: The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

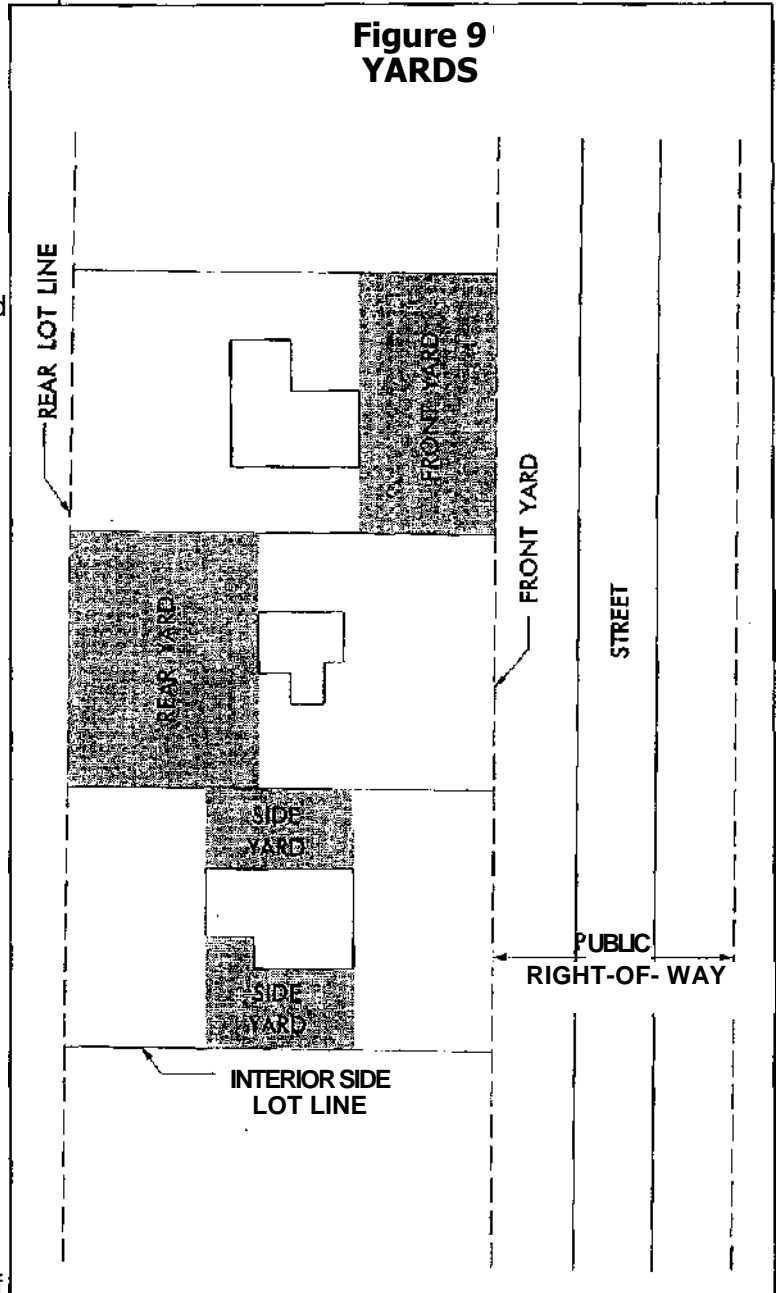
107. Variance: A modification of literal provisions of this Ordinance which the Board of Appeals is permitted to grant when strict enforcement of said provision would cause undue hardship owing to circumstances unique to the individual property in which the variance is sought.

108. Yard: A space open to the sky between a building and the lot lines of the parcel of land on which the building is located, unoccupied or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance (see **Figure 9**).

a. **Front Yard:** A yard across the full width of the lot extending from the front line of the principal building to the front lot line, or highway-right-of-way line as the case may be.

b. **Rear Yard:** A yard extending across the full width of the lot from the rear line of the building to the rear lot line.

d. **Side Yard:** A yard extending between the side lot line and the nearest side of the building.



109. Zoning Administrator: The official designated by the Shepherd Village Council to administer and enforce the provisions of this Ordinance.

110. **Zoning Permit:** Written authority as issued by the Zoning Administrator on behalf of the Village permitting the construction, moving, exterior alteration or use of a building in conformity with the provisions of this Ordinance.

**ARTICLE III
ZONING DISTRICTS AND MAP**

Section 300 Districts Enumerated

For the purpose as set forth in the Preamble, the Village of Shepherd of Isabella County shall be divided into the following Zoning Districts:

1. Single-Family Residential District — R-1
2. Single-Family/Two-Family Residential District — R-2
3. Multiple-Family Residential District — R-3
4. Manufactured Home Park District — R-4
5. Central Business District — C-1
6. General Commercial District — C-2
7. Industrial District — IND
8. Agricultural District — AG

Section 301 Boundaries

1. The boundaries of these districts are hereby established as shown on the zoning map, and which map with all notations, references, and other information shown thereon shall be as much part of this chapter as if fully described in this article.
2. Unless shown otherwise, the boundaries of the district are lot lines, section lines, the centerlines of streets, alleys, roads or such lines extended, and the corporate limits of the Village.
3. Where, due to the scale, lack of detail or illegibility of the zoning map accompanying, there is any uncertainty, contradiction or conflict as to the intended location of any district

boundaries, shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, by the Board of Appeals.

**Section 302 District Boundaries
Interpreted**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following Village limits shall be construed as following Village limits.
4. Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.
5. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. Where physical or natural features existing on the ground are at variance

with those shown on the official zoning map, or in other circumstances not covered by subsections (1)--(6) of this section, the Board of Appeals shall interpret the district boundaries.

8. Insofar as some or all of the various districts may be indicated on the zoning map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

Section 303 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 zone district as the property to which it attaches.

Section 304 District Requirements

All buildings and uses in any district shall be subject to the provisions of **Articles X111** and XIV of this chapter.

Article IV
R-1 Single-Family Residential District

The following provisions shall apply to the R-1 Single-Family Residential District.

Section 400 Intent

The intent of this district is to provide for low density, single-family residential development and related public and semipublic buildings, facilities, and accessory structures.

The provisions of this district are intended to protect and stabilize existing single-family developments and to encourage future single-family developments to occur on vacant land suitable for development, contiguous to existing residential land, with adequate public services and utilities. Encroachment by non-residential uses and activities considered capable of adversely affecting the residential character of this district is discouraged.

Section 401 Uses Permitted by Right

1. Single-family dwellings.
2. Bed and breakfast facilities.
3. Golf courses.
4. Accessory uses, buildings and structures customarily incidental to the uses permitted by right.

Section 402 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. Churches and other places of worship.
2. Family day care homes.

3. Home occupations.
4. Publicly owned and operated recreation areas, parks and playgrounds.
5. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception.

Section 403 Area and Bulk Regulations

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Article V
R-2 Single-Family / Two-Family Residential District

The following provisions shall apply to the R-2 Single Family/Two Family Residential District.

Section 500 Intent

The purpose of this district is to provide for stable, quality single-family and two-family residential developments at increased densities, along with related public and semi-public buildings, facilities, and accessory structures. Districts of this nature are generally found in more established urbanized areas with existing public services and facilities, and serve as buffers or transitions between lower density residential areas and higher or nonresidential areas.

Section 501 Uses Permitted by Right

1. Single-family dwellings.
2. Two-family dwellings.
3. Churches and other places of worship.
4. Publicly owned and operated recreation areas, parks and playgrounds.
5. Accessory uses, buildings and structures customarily incidental to the uses permitted by right.

Section 502 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. Bed and breakfast facilities.
2. Home occupations.

3. Family day care homes.
4. Publicly owned buildings and community facilities, including schools.
5. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception.

Section 503 Area and Bulk Regulations

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Article VI
R-3 Multiple-Family Residential District

The following provisions shall apply to the R-3 Multiple-Family Residential District.

Section 600 Intent

The intent of this district is to provide for an efficient and economic use of land through a mixture of single-family, two-family, and multiple-family housing types together with such public and semi-public buildings and facilities and accessory structures as may be necessary and are compatible with such residential developments.

The provisions of this district are intended to provide for the development of such projects with characteristics that are compatible with surrounding areas, while preserving open space and other natural features. It is the intent of this district to locate residential developments near concentrations of nonresidential activities and facilities such as employment centers, with adequate access to major transportation arteries and existing public facilities and services.

Section 601 Uses Permitted by Right

1. Single-family dwellings.
2. Two-family dwellings.
3. Multiple-family dwellings.
4. Bed and breakfast facilities.
5. Boarding, lodging or rooming houses.
6. Churches and other places of worship.
7. Publicly owned and operated recreation areas, parks and playgrounds.

8. Accessory uses, buildings and structures customarily incidental to the uses permitted by right.

Section 602 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. Administrative, executive, governmental, and professional offices.
2. Group day care homes.
3. Home occupations.
4. Publicly owned buildings and community facilities, including schools.
5. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception.

Section 603 Area and Bulk Regulations

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Article VII
R-4 Manufactured Home Park District

The following provisions shall apply to the R-4 Manufactured Home Park District.

Section 700 Intent

The intent of this district is to preserve the interests of alternate types of residential developments by providing for manufactured housing developments and to protect the residents of any manufactured home development.

Section 701 Uses Permitted by Right

1. Manufactured home parks, subject to the requirements established by the Mobile Home Commission Act, Public Act 96 of 1987, as amended, and the National Mobile Home Construction and Safety Standards Act of 1974.
2. Accessory uses, buildings, or structures customarily incidental to Manufactured Home Parks such as, clubhouses, swimming pools, common playground areas, laundry facilities, storage or out buildings, and Manufactured Home Park offices.

Section 702 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. Home occupations.
2. Publicly owned buildings and community facilities, including schools.
3. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception.

Section 703 Area and Bulk Regulations

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Section 704 Other Regulations

See **Section 1315** of this chapter which further regulates Manufactured Home Parks.

ARTICLE VIII
C-1 Central Business District

The following provisions shall apply to the C-1 Central Business District.

Section 800 Intent

The intent of this district is to provide and maintain a central business district by providing for a diverse amount of office, business, and commercial facilities intended to serve the diverse needs of Village citizens and tourists alike.

The district regulations are designed to promote convenient pedestrian shopping and stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive related services and nonretail uses which tend to break up such continuity. Large general commercial establishments and strip commercial developments are discouraged.

Section 801 Uses Permitted by Right

1. Administrative, executive, governmental, and professional offices.
2. Banks, with drive-in facilities permitted when such facilities are incidental to the principal function of the bank.
3. Bed and breakfast facilities.
4. Business schools and colleges or private schools operated for profit.
5. Libraries.
6. Municipal buildings and post offices.
7. Museums.
8. Newspaper offices and printing plants.
9. Offices and showrooms of plumbers, electricians, decorators or similar trades, in connection with which not

more than 25 percent of the floor area of the building or part of the building occupied by such establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise, and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display. All storage of materials shall be within the confines of the building.

10. Personal service establishments which perform services on the premises within a completely enclosed building.
11. Restaurants, except those having the character of a drive-through business.
12. Retail businesses which supply commodities on the premises within a completely enclosed building including, but not limited to, foods, drugs, liquor, furniture, clothing, dry goods, notions or hardware.
13. Theaters, assembly halls and concert halls.
14. Utility and public service office buildings and uses (without storage yards) when operating requirements necessitate the locating of such facilities within the district to serve the immediate vicinity. No building or structure shall be located in any required front or side yard.
15. Warehouse and storage facilities shall be permitted when incident to and physically connected with any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by such establishment.

16. Other uses which are similar to the uses described in this section and subject to the following restrictions:

- a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.
- b. All business servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
- c. Outside display for the purpose of conducting retail sales is permitted for all licensed merchants on private property; providing other provisions of this article are adhered to.
- d. Notwithstanding anything contained in this section to the contrary, the Zoning Administrator may allow the placement of goods and merchandise for retail sales each year for what is commonly referred to as "sidewalk days."
- e. Notwithstanding anything contained in this section to the contrary, the Zoning Administrator may allow the placement of goods for retail sales on a public sidewalk or public street by a nonprofit organization recognized by the Internal Revenue Service as a charitable organization or a licensed retail merchant. The organization or merchant shall obtain a permit from the Zoning Administrator which shall specify the locations and time period covered by the permit, and the merchant or organization must provide proof to the Village as a named insured. The permit shall be issued without charge. The Zoning Administrator may deny the permit if there is a reason to believe that the activity to be covered by the permit, its requested locations or time interval would interfere with the rights

of others to use the public sidewalk or street, interfere with the ability of Village employees to carry out their jobs, or the right of the public to unobstructed travel along a public street or public sidewalk.

17. Single-Family Dwellings.

18. Accessory uses, buildings and structures customarily incidental to the uses permitted by right.

Section 802 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. Two-family dwellings, when all of the following conditions have been satisfied:
 - a. The two-family dwelling or proposed two-family dwelling is located in the second story or other upper story of a building in the C-1 Central Business District, except that no building designed and constructed to be used as a single-family dwelling at the time the building was originally constructed may be used as a two-family dwelling.
 - b. No portion of a two-family dwelling, including but not limited to, the bathroom, kitchen or sleeping quarters of a two-family dwelling located on the second story or other upper story shall be permitted in the first story, ground story, or basement of any building in the C-1 Central Business District.
 - c. The review and determination of the Zoning Administrator that the two-family dwelling complies with

all the requirements of this chapter, and of the building code, the housing code, the fire code and any other health or safety code of the Village.

2. Multiple-family dwellings, when all of the following conditions have been satisfied:
 - a. The multiple-family dwelling or proposed multiple-family dwelling is located in the second story or other upper story of a building in the C-1 Central Business District, except that no building designed and constructed to be used as a single-family dwelling at the time the building was originally constructed may be used as a multiple-family dwelling.
 - b. No portion of a multiple-family dwelling, including but not limited to, the bathroom, kitchen or sleeping quarters of a multiple-family dwelling located on the second story or other upper story shall be permitted in the first story, ground story, or basement of any building in the Central Business District.
 - c. The review and determination of the Zoning Administrator that the multiple-family dwelling complies with all the requirements of this chapter, and of the building code, the housing code, the fire code and any other health or safety code of the Village.
3. Dry cleaners and self-service laundries.
4. H o t e l s .
5. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception.

Section 803 Area and Bulk Regulations

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Article IX
C-2 General Commercial District

The following provisions shall apply to the C-2 General Commercial District.

Section 900 Intent

The intent of this district is to provide for commercial areas that are designed for the needs of citizens of the Village and surrounding communities. The general character of this district comprises a broad range of retail and service uses, entertainment uses, community facilities, and general office uses.

The provisions of this district are intended to encourage general commercial development to locate along major arteries particularly adjacent to major intersections where such development could most adequately serve the needs of the community's residents and those of the traveling public, without excessive quantities of strip development. The district discourages encroachment by industrial, residential or other uses considered capable of adversely affecting the general business characteristics of this district.

Section 901 Uses Permitted by Right

1. All principal uses as permitted in the C-1 Central Business District.
2. Appliance sales and service.
3. Art galleries
4. Automobile wash establishments.
5. Bakeries
6. Bed and breakfast facilities.
7. Bowling alleys and pool and billiard parlors.
8. Bus passenger stations.

9. Churches and other places of worship.
10. Clinics.
11. Clubs.
12. Curio stores
13. Dry cleaners and self-service laundries.
14. Florist shops
15. Funeral homes.
16. Furniture stores.
17. Golf driving ranges.
18. Grocery stores.
19. Hardware stores.
20. Jewelry stores.
21. Music Shops.
22. Nurseries.
23. Parking lots.
24. Pet sales and supply.
25. Printing and photocopy shops.
26. Radio and TV sales and service.
27. Restaurants, except those having the character of a drive-through business.
28. Sporting goods shops.
29. Storage of materials or goods to be sold at retail establishments, provided such storage is within a building or is enclosed as not to be visible to the public from any abutting residential district or public street.

30. Taverns and bars.
31. Veterinary Clinics
32. Other similar retail businesses or service establishments which generally provide commodities or services for more than one neighborhood (as distinguished from those which primarily serve residents of the surrounding neighborhood) which are judged by the Planning Commission to be similar in character to those enumerated.
33. Accessory uses, buildings and structures customarily incidental to the uses permitted by right.

Section 902 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. All uses permitted in R-1, R-2, and R-3 residential districts, provided that such uses shall be permitted only as to structures which are now in existence and which would otherwise be nonconforming uses under this chapter or any amendment thereto.
2. Adult entertainment businesses.
3. Automobile sales and repair.
4. Restaurants, including those having the character of a drive-through business.
5. Farm machinery sales and repair.
6. Gasoline service stations.
7. Hotels.

8. Miniature golf courses, outdoor children's amusement parks and similar uses.
9. Motels or motor courts.
10. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception.

Section 903 Area and Bulk Regulations

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Article X

IND Industrial District

The following provisions shall apply to the IND Industrial District.

Section 1000 Intent

The intent of this district is to provide areas that are appropriate for the industrial needs of the Village. The district may include a variety of mixed wholesale and warehousing activities, light manufacturing, general offices, and research and development facilities that have no detrimental effect on the surrounding districts. Development in this district is to be restricted to clean industry that does not produce substantial air or water pollution and excessive noise or odor.

The district encourages industrial development to locate at a reasonable distance from heavily inhabited areas with access to major thoroughfares, highways, and railroads. The provisions of this district further intend to discourage residential development or any other development that would hinder or adversely affect the industrial character of the district.

Section 1001 Uses Permitted by Right

1. Laboratories: experimental, film or testing.
2. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
3. Manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
4. Manufacture or assembly of electrical appliances, electronic instruments and devices and radios and phonographs.
5. Manufacturing and repair of electric or neon signs, light sheet metal products, heating and ventilating equipment, cornices and eaves.

6. Manufacturing, compounding, processing, packaging or treatment of such products, including bakery goods, candies, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die gauge, and machine shops.
7. Research, design and experimental product development uses when conducted within a completely enclosed building.
8. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities, including lumberyards, building materials, outlets, garage sales, upholsterer, cabinetmaker, outdoor boat or house trailer, automobile, or agricultural implement sales; and uses which serve convenience needs of the industrial district, including eating and drinking establishments, banks, savings and loan associations, credit unions, automobile service stations, motel or bowling alley, trade or industrial schools, or medical or other offices serving the IND Industrial District.
9. Warehousing and wholesale establishments.
10. Other uses similar in character to the above uses as determined by the Village Planning Commission.
11. Accessory uses, buildings and structures customarily incidental to the uses permitted by right.

Section 1002 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. Adult Entertainment Businesses.
2. Telecommunication towers, alternative tower structures, water towers, wireless communication antennas, electric transmission towers, water or sewage treatment plants, electric substations, gas regulator stations, and other major public utility structures.
3. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception_

Section 1003 Area and Bulk Regulations

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Article XI

AG Agricultural District

The following provisions shall apply to the AG Agricultural District.

Section 1100 Intent

This district provides for the continuance of farming, ranching, and commercial gardening activities on land being utilized for these purposes. The district is also intended for very low density single-family housing as well as the preservation of natural open space lands and lands that are unsuitable for development due to constraints such as flooding, or lack of infrastructure.

When land in the Agricultural District is needed for urban purposes, it is anticipated the zoning will be changed to the appropriate zoning district(s) to provide for orderly growth and development in accordance with the Master Plan.

Section 1101 Uses Permitted by Right

1. Single-family dwellings.
2. Bed and breakfast facilities.
3. Churches and other places of worship.
4. Farms — crop and livestock, including truck gardens, tree farms, and other specialty crops, but excluding the raising of fur bearing animals.
5. Forestry and wildlife preserves.
6. Golf courses.
7. Publicly owned and operated recreational areas, parks, and playgrounds.
8. Publicly owned buildings and community facilities, including schools.
9. Roadside Stands.

10. Accessory uses, buildings and structures customarily incidental to the uses permitted by right.

Section 1102 Uses Permitted by Special Exception

The following uses are permitted by special exception in accordance with the process outlined in **Section 1604** of this zoning ordinance.

1. Animal sale yards.
2. Campgrounds.
3. Cemeteries, including columbarium, mausoleums and crematories.
4. Clinics.
5. Convalescent homes.
6. Fur bearing animals, raising of.
7. Home occupations.
8. Hospitals.
9. Intensive livestock operations.
10. Kennels, Commercial.
11. Radio-TV stations, studios.
12. Real estate offices (sales) in connection with a specific development for a period not more than that specified at the time special approval is granted.
13. Resorts, including accessory facilities such as stables, corral, swimming pools, food services, and incidental retail sales and services.
14. Rifle ranges.



15. Sawmills-temporary use not to exceed one (1) year.
16. Stables, Commercial.
17. Summer camps.
18. Telecommunication towers, alternative tower structures, water towers, wireless communication antennas, electric transmission towers, water or sewage treatment plants, electric substations, gas regulator stations, and other major public utility structures.
19. Accessory uses, buildings and structures customarily incidental to the uses permitted by special exception.

**Section 1103 Area and Bulk
Regulations**

See **Article XII** of this chapter limiting the height and bulk of buildings, and providing the minimum size of lot permitted by land use and the maximum density permitted.

Article XII

Schedule of Regulations

Section 1200 Purpose

It is the purpose of the zoning ordinance to regulate the size, bulk, height and types of uses and structures in various districts to protect the general health, safety, and welfare of residents living or working within such districts. The following Schedule of Regulations stipulate the minimum

allowable areas for land and buildings in each district as defined in this Ordinance.

No structure shall be erected, nor shall an existing building be altered or enlarged unless it conforms with the minimum area and setback requirements and maximum building heights as established for each district of this Ordinance.

Section 1201 Footnotes to Schedule of Regulations

1. A maximum lot ratio of one to four (lot depth cannot exceed four times the lot width) shall be maintained for all new lots created. This ratio will not apply to existing lots. The depth of lot shall be measured within the boundaries of the lot from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured within its boundaries from parcel boundary lines which are perpendicular to the abutting road right-of-way, at the road right-of-way.
2. The minimum floor area per dwelling unit shall not include area of basements, utility rooms, breezeways, porches, or attached garages.
3. The minimum floor space per dwelling unit shall be:

Efficiency 350 sq. ft.
One-bedroom apartment 500 sq. ft.
Two-bedroom apartment 700 sq. ft.
Three-bedroom apartment 800 sq. ft.

Plus an additional eighty (80) square feet for each additional bedroom.

4. No side yards are required along the interior side lot lines, unless otherwise provided in the building code. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than ten feet on the side of residential street. If walls or structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten feet shall be provided.
5. No building shall be closer than 50 feet to the outer perimeter (property line) of such district when such property line abuts any residential district. Upon application to the Village Board of Appeals, wherein such body determines the abutting residential district to be an area in transition which may become nonresidential in the future, this subsection may be waived by the board and substitute distances may be provided.
6. All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six feet high, or with a chain link fence and a greenbelt strip to obscure all view from adjacent residential, office, or business districts or a public street.
7. The maximum percentage of coverage shall be determined by the use and the provisions for required off-street parking, loading, and unloading, and required yards.

8. The minimum lot size for Manufactured Home Parks shall be ten (10) acres.

**Table A
Schedule of Regulations**

Zoning District	Minimum Lot Size		Maximum Building Height		Minimum Yard Setbacks In Feet			Minimum Floor Area per Dwelling Unit in Sq. Ft. (2)	Maximum Building Coverage of Lot	
	Area in Sq. Ft.	Width in Ft. (1)	Stories	Feet	Front	Minimum Single Side	Total Two Sides			Rear
R-1 Single-Family	10,800	80	2 1/2	30	40	10	20	30	1,000	30%
R-2 Single-Family/ Two-Family	8,580	65	2-1/2	30	30	5	10	30	800 / 1,600	30%
R-3 Multiple-Family	8,580	65	3	35	30	5	10	30	(3)	(7)
R-4 Manufactured	(8)	100	2	25	10	5	10	30	600	None
C-1 Central Business	None	None	3	35	None	None (4)	None (4)	None (4)	None	(7)
C-2 General Commercial	None	None	3	35	25	None (4)	None (4)	None (4)	None	(7)
IND Industrial	None	None	3	35	30	20	40	(5) (6)	None	(7)
AG Agricultural	13,260	100	3	35	40	20	40	30	800	30

* See **Section 1201** for footnotes

Article XIII

Special Provisions

Section 1300 Scope

The following uses, due to their special nature, require additional standards to ensure compatibility with the character of the district they are located in. For this reason, the following uses shall be controlled by the provisions of this Article, in addition to the provisions of the district they are listed under.

Section 1301 Adult Entertainment Businesses

1. No adult entertainment business shall be permitted in a location in which any principal or accessory structure, including signs, is within two hundred fifty (250) feet of any principal or accessory structure of another adult entertainment business.
2. No adult entertainment business shall be established on a parcel that is within two hundred fifty (250) feet of any parcel zoned R-1, R-2, R-3, or R-4.
3. No adult entertainment business shall be established on a parcel within five hundred (500) feet of any residence, park, school, childcare facility, or place of worship. The distance shall be measured in a straight line from the nearest property line upon which the proposed adult entertainment business is to be located to the nearest property line of the residence, school, childcare facility, or place of worship.
4. The proposed use shall conform to all specific density and setback regulations of the zoning district in which it is located.
5. The proposed use must meet all applicable written and duly adopted

standards of Shepherd Village and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.

6. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.
7. Any sign or signs proposed for the adult entertainment business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
8. Entrances to the proposed adult entertainment business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business. Lettering no less than two (2) inches in height shall state: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
9. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
10. Hours of operation shall be limited to 12:00 noon to 12:00 midnight.

Article XIII

11. All off-street parking areas shall be illuminated during all hours of operation of the adult entertainment business, and until one hour after the business closes.
12. Any booth, room or cubicle available in any adult entertainment business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - a. Is handicap accessible to the extent required by the Americans with Disabilities Act;
 - b. Is unobstructed by any door, lock or other entrance and exit control device;
 - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - d. Is illuminated by a light bulb of wattage of no less than twenty-five (25) watts;
 - e. Has no holes or openings in any side or rear walls.

Section 1302 Automobile Wash Establishments

1. All washing activities must be carried on within a building.
2. Vacuuming activities may be carried out only in the rear yard and at least fifty (50) feet distant from any adjoining residential use.
3. The entrances and exits of the washing facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.

Section 1303 Bed and Breakfast Facilities

1. Building Requirements

The structures in which the bed and breakfast operation is located must meet the following requirements:

- a. The building must meet the minimum size requirements for that particular zone.
- b. The building must have a minimum of two exits.
- c. Each bedroom used for the bed and breakfast operation should have a minimum of 100 square feet for two occupants and a minimum of 160 square feet for a family of two adults and two children.
- d. Each bedroom must be equipped with a smoke detector.
- e. Each bedroom must be located in the principal structure on the property. No bed and breakfast bedrooms are allowed in outbuildings.
- f. External changes or modifications for the purpose of accommodating the bed and breakfast operation are prohibited.
- g. Bed and breakfast bedrooms shall not be located in basements or other below ground areas.
- h. Sleeping and bath areas rented to paying guests on an overnight basis shall not occupy greater than 30 percent of the usable floor area of the dwelling.
- i. Guests at bed and breakfast facilities must have access to indoor restroom facilities in the building.

2. Other Requirements

- a. No more than two adults shall occupy a bed and breakfast bedroom at any one time.
- b. The owner and paying guests of a bed and breakfast facility are prohibited from conducting parties, receptions, banquets and other activities.
- c. The maximum length of stay in a bed and breakfast facility shall not exceed 16 consecutive days per visit.
- d. A single, non-illuminated, non-animated sign which identifies the bed and breakfast facility of not more than one square foot in area may be erected on the front wall of the building. One freestanding, non-illuminated, non-animated sign of not more than four square feet shall be permitted.
- e. The bed and breakfast facility must be the principal residence of the owner of the facility, and the owner must reside on the premises.
- f. A bed and breakfast facility may not have more than two outside employees.
- g- Each bed and breakfast facility must maintain a guest register.
- h. Breakfast is the only meal that may be served as part of the bed and breakfast operation.
- i. Bed and breakfast facilities must comply with state health department rules and requirements regarding food service.
- j. Bed and breakfast bedrooms shall not contain cooking facilities, and the house kitchen shall not be enlarged for the purpose of accommodating the bed and breakfast operation.

Section 1304 Campgrounds

Minimum lot size shall be ten (10) acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean the entire campground or travel trailer park. Each lot shall be provided with at least one (1) public telephone.

Section 1305 Child Care Organizations

All Child Care Organizations shall require State licensing, as specified in Public Act 116 of 1973, as amended.

Section 1306 Convalescent Homes

Convalescent homes shall be designed and constructed in accordance with State regulations.

Section 1307 Drive-Through Businesses

1. The main and accessory buildings shall be set back a minimum of forty (40) feet from any adjacent right-of-way line or residential property line.
2. A minimum six (6) foot high wall, fence, or greenbelt / landscaped area shall be provided adjacent to any residential district according to the requirements of **Section 1405** of this Ordinance.

Section 1308 Garage or Yard Sales

Not more than three (3) garage or yard sales shall be conducted by a resident of the Village of Shepherd during a calendar year. Said garage or yard sale shall not exceed three (3) days duration. Temporary signs for the sale shall be removed at the end of the sale.

Section 1309 Gasoline Service Stations

1. The service area of any automobile service station shall consist of such capacity as to allow the servicing of at least three (3) automobiles per gasoline pump.
2. Gasoline pumps shall be set back a minimum of twenty-five (25) feet from any street or right-of-way line.
3. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed within a building.
4. A minimum six (6) foot high fence or greenbelt / landscaped area is required on all sides abutting an adjacent residential property or district according to the standards in **Section 1405** of this Ordinance.
5. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot screening fence and shall comply with requirements for location of accessory buildings. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted for a period exceeding fourteen (14) days.
6. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.
7. Only one (1) free-standing sign per street frontage shall be permitted, not exceeding twenty-four (24) square feet in area, which shall display only the name of the user or occupant of the premises.

Section 1310 Golf Courses

1. Minimum lot size shall be sixty (60) acres.
2. The main and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.

Section 1311 Home Occupations

While the Village of Shepherd recognizes that many residents feel the necessity to work at home, the Village also recognizes the rights of all residents to be free from actual or potential nuisance, which may be caused by non-residential activities conducted in a residential zone. The intent of this section is to ensure that any home occupation is compatible with other permitted uses in residential districts and to maintain and preserve the residential character of the neighborhood.

1. The home occupation shall be clearly incidental and subordinate to the principal use of the premises for residential purposes. The exterior appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner which would substantially alter the premises' residential character.
2. The home occupation is conducted by the person or persons occupying the premises as their principal residence. Non-resident persons shall not be employed. Such use shall not occupy more than twenty-five percent (25%) of the ground floor area of the dwelling unit. No accessory building shall be used in the home occupation.
3. The dwelling has no exterior evidence, other than one (1) non-illuminated sign not exceeding four (4) square feet to indicate that the dwelling is being utilized for a non-residential purpose, and such sign is in conformance with the requirements of this Ordinance.

4. No occupation shall be conducted upon or from the premises, which would constitute a nuisance or annoyance to adjoining residents by reason of noise, dust, glare, heat, smoke, fumes, odor, vibrations or electrical disturbance. There shall be no discharge of polluting materials, fluids or gases into the ground or surface water, soil or atmosphere.
5. Vehicular and pedestrian traffic generated by the home occupation shall not exceed that which would normally be expected in a residential neighborhood, and the need for parking shall be met off street.
6. The home occupation shall not be open to the public earlier than 8:00 a.m. nor later than 8:00 p.m.
7. There shall be no open display of goods, materials or services in connection with a home occupation, and no off-street parking shall be permitted within the setback area.
8. Any such home occupation shall be subject to special approval by the Planning Commission and inspection by the Zoning Administrator. The permit for it may be terminated for failure to comply with the Zoning Ordinance.

Section 1312 Intensive Livestock Operations

1 Area and Location Requirements

- a. The property shall have a minimum lot area of 40 contiguous acres under common ownership.
- b. The property shall have a minimum lot frontage of 660 feet.
- c. All non-residential buildings, structures, enclosed areas (including land used for pasture or feedlot purposes), and equipment associated with the conducting of an intensive livestock operation, including animal shelter and waste storage areas, structures,

excavations, shall be located at least 100 feet from any property boundary.

- d. All buildings, structures, enclosed areas (including land used for pasture or feedlot purposes), and equipment associated with the conducting of an intensive livestock operation, including animal shelter and waste storage areas, structures, and excavations:
 - i. shall be located at least 1,320 feet (one-quarter mile) from the boundaries of any property zoned other than "AG" Agricultural pursuant to the Village Zoning Ordinance/ Map, at the time application for the special exception permit is made.
 - ii. shall be located at least 2,640 feet (one-half mile) from the boundaries of any existing recorded residential plat in the Village.
 - iii. shall be located at least 5,280 feet (one mile) from any other existing intensive livestock operation.
- e. All buildings, structures, enclosed areas, and equipment associated with the conducting of an intensive livestock operation, including animal shelter and waste storage areas, structures and excavations, shall be located at least 100 feet from the right-of-way of any public roadway; provided, that lands used only for pasture purposes shall not be subject to this requirement.

2. Operational and Waste Management Requirements

An Intensive Livestock Operation shall be operated and maintained at all times in accordance with the

recommendations set forth in the
GENERALLY ACCEPTED
AGRICULTURAL AND
MANAGEMENT PRACTICES FOR
SITE SELECTION AND ODOR
CONTROL FOR NEW AND
EXPANDING LIVESTOCK
PRODUCTION FACILITIES
(GAAMPS) as adopted by the
Michigan Agricultural Commission.

Section 1313 Kennels, Commercial

1. All kennels shall be operated in conformance with all County and State regulations.
2. For dog kennels, the minimum lot size shall be five (5) acres for the first ten (10) dogs and an additional one (1) acre for each ten (10) additional animals.
3. Buildings wherein animals are kept, animal runs and/or exercise areas shall not be located nearer than five hundred (500) feet to any adjacent occupied dwelling or any adjacent building used by the public.

Section 1314 Livestock and Domestic Animals

The keeping of chickens, cows, sheep, pigs, hogs, horses or other such livestock is prohibited on any parcel of land less than five (5) acres in size. Domestic animals, such as cats, dogs and rabbits, may be kept on any parcel less than five (5) acres, provided the number of such animals shall not exceed four (4) animals per each acre of land.

Section 1315 Manufactured Home Parks

Manufactured Home Parks as permitted in the R-4 Manufactured Home Park District shall comply with the following conditions:

1. Manufactured Home Parks shall comply with all the regulations and

requirements of the Mobile Home Commission Act, Public Act 96 of 1987 and the National Mobile Home Construction and Safety Standards Act of 1974.

2. The layout of the manufactured housing development and included facilities shall be in accordance with acceptable planning and engineering practices and shall provide for the convenience, health, safety, and welfare of the residents.
3. A minimum six (6) foot high wall, fence, or greenbelt landscaped area is required on all sides of the property according to the standards of **Section 1405** of this Ordinance.
4. Units shall be attached to a Michigan Manufactured Housing Commission approved foundation or basement and anchoring system, and shall be installed according to manufacturer's setup instructions.
5. No manufactured home site or any building in a manufactured home park shall be located closer than fifty (50) feet to the right-of-way line of a public thoroughfare nor closer than twenty (20) feet to any other manufactured home park property line

Section 1316 Open-Air Businesses

1. Minimum lot area shall be two (2) acres.
2. Minimum lot width shall be two hundred (200) feet.
3. Lighting shall be installed in such a manner which will not create a traffic hazard on abutting streets or which will cause a glare or direct illumination to be cast onto adjacent properties, residential or otherwise.
4. In all cases of car sales lots:

- a. All areas subject to vehicular use shall be paved with durable dust-free surfacing, with appropriate bumper guards where needed.
 - b. Lighted parking areas shall not create a nuisance for nearby properties.
5. In the case of a plant materials nursery:
- a. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
6. All loading activities and parking areas shall be provided on the same premises (off-street).
- a. The storage of soil, fertilizer or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

Section 1317 Swimming Pools

Swimming pools are permitted in the rear and side yards of all residential districts, provided all of the following regulations are complied with:

- 1. The pool shall be equipped with filtration, circulation and other systems adequate to maintain the water in a clean and healthful condition in accordance with the health requirements of the county.
- 2. The discharge pipe leading from any private swimming pool shall be composed of durable material and size as approved by the county engineer. No private swimming pool shall be wholly or partially emptied on another property, unless written permission is first obtained from the adjacent property owner. Discharged water will not be allowed to flow into the storm water system.

- 3. A proper plumbing permit shall be obtained when the system is connected to a potable water system.
- 4. Every private swimming pool shall be completely enclosed with a permanent substantial fence with gate or gates no less than four (4) feet in height above the ground level. No opening in such fence or gate shall be so designated or maintained as to permit access to the pool except under the supervision of the possessor or by his permission.
- 5. Every private above grade swimming pool with sidewalls four (4) feet or higher in height above ground level shall have enclosures consisting of a permanent substantial fence with gate or gates no less than four (4) feet in height above the ground level surrounding any ladders or structures intended to be used for entry into the swimming pool. No opening in such fence or gate shall be so designated or maintained as to permit access to the pool except under the supervision of the possessor or by his permission.
- 6. No lighting or electrical wiring shall overhang the surface of the water or be so located as to present the possibility of falling into the water. All lighting of the pool or the surrounding area shall not be so located as to reflect on adjacent property or upon adjacent buildings.
- 7. A swimming pool shall be considered as an accessory building for the purpose of determining required yard spaces and maximum lot coverage. Clearances to side lot lines shall be not less than (10) feet. Clearances to rear lot lines shall not be less than five (5) feet.
- 8. Existing pools at the time of adoption of this ordinance shall not be subject to restrictions of Item 7 of this section.

Section 1318 Roadside Stands

1. The gross floor area of the temporary building shall be not less than thirty-two (32) square feet but not more than two hundred and fifty (250) square feet.
2. Suitable containers for rubbish shall be placed on the premises for public use.
3. The temporary building shall be located not less than twenty-five (25) feet from the public road right-of-way. Its height shall be no more than one (1) story.
4. Adequate off-street parking shall be provided.
5. Permit shall be required for a temporary roadside building. Said permit shall be good for no more than six (6) months, after which the building shall be removed.

Section 1319 Stables, Commercial

1. For breeding, rearing and housing of horses, mules and similar domestic animals, the minimum lot size shall be ten (10) acres.
2. Structures used as a stable shall not be located nearer than sixty (60) feet to any property line and not nearer than one hundred fifty (150) feet to any adjoining property.
3. Animals shall be confined in a suitable fenced area, or paddock, to preclude their approaching nearer than sixty (60) feet to any dwelling on adjacent premises.
4. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not be constituted a nuisance or hazard to adjoining premises.

Section 1320 Telecommunications Towers

1. Telecommunications Towers shall be located on lots no less than one (1) acre in size and shall have a minimum lot frontage of no less than sixty (60) feet.
2. The setbacks for each tower from adjacent right-of-way and/or property lines shall be not less than one time the height of each tower above the ground.
3. A minimum six (6) foot high wall, fence or greenbelt / landscaped area is required on all sides of the property according to the standards of **Section 1405** of this Ordinance.

Section 1321 Utility Buildings

Authorized utility buildings or structures may be erected as a part of the principal building or may be connected to it by a roofed over porch, patio, breezeway or similar structure, or may be completely detached. If attached to the principal building, a utility building or structure shall be made structurally as part of it and shall comply in all respects with the requirements applicable to the principal building. A utility building, on a permanent or a temporary foundation, not attached and not made a part of the principal building shall not be nearer than six (6) feet from the principal building.

No utility building or structure may be erected or used unless the following additional requirements are complied with:

1. No utility building or structure may be erected or used upon a lot on which there is no principal building however, a utility building or structure may be erected in advance of the principal building by a special permit issued by the Planning Commission.

2. Utility buildings or structures shall not be erected in any minimum side yard setback nor in any front yard. A utility building or structure may be located no less than ten (10) feet from a side lot line nor less than five (5) feet from a rear lot line.
3. No utility building or enclosed structure may be located in a required front yard.
4. Utility buildings and enclosed structures shall not exceed twelve (12) feet in height and shall occupy not more than thirty (30) percent of a rear yard setback, nor more than forty (40) percent of any rear yard in excess of the rear yard setback.
5. Repositioning of existing utility buildings and structures in place prior to the adoption of this ordinance shall not be required.

Article XIV General Provisions

Section 1400 Introduction

Wherever any provision of this chapter 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 chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such ordinance shall govern.

Section 1401 Effect of Zoning

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

Section 1402 Accessory Buildings

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to the main building.
2. Buildings accessory to residential buildings shall not be erected in any required yard, except a rear yard.
3. Buildings accessory to residential buildings not exceeding one story or 14 feet in height may occupy not more than 25 percent of a required rear yard, plus 40 percent of any nonrequired rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.
4. No detached building accessory to a residential building shall be located

closer than ten feet to any main building nor shall it be located closer than three feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than five feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.

5. No detached accessory building in the R-1, R-2, R-3, or R-4 districts shall exceed one story or 14 feet in height. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in such districts, subject to the Planning Commission review and approval.
6. When a building accessory to a residential building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, such building shall not project beyond the front yard setback required on the lot in the rear of such corner lot. A building accessory to a residential building shall in no case be located nearer than ten feet to a street right-of-way line.

Section 1403 Corner Clearance

In all districts, no fence, wall, shrubbery, sign or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the

Section 1404 Exterior Lighting

All lighting for parking areas or for the external illumination of buildings and uses shall be directed from and shall be shielded from adjacent residential districts and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares.

Section 1405 Fences, Greenbelts, and Screening

1 Screening Requirements by District and Use

- a. The following districts require a wall, fence, or greenbelt / landscaped area on sides of properties whose lot lines abutt or are adjacent to a residential property or district.
 - i. C-1 and C-2 District. A minimum four (4) foot high wall, fence or greenbelt/landscaped area pursuant to specifications of this section
 - ii. **IND** District. A minimum five (5) foot high wall, fence, or greenbelt/landscaped area pursuant to specifications of this section.
- b. The following uses require specific fence and screening requirements as follows:
 - i. Drive-Through Businesses. A minimum six (6) foot high wall, fence, or greenbelt/landscaped area on sides of the property abutting a residential property or district.
 - ii. Gasoline Service Stations. A minimum six (6) foot high wall, fence, or greenbelt/landscaped area on sides of the property abutting a residential property or district.
 - iii. Manufactured Home Parks. A minimum six (6) foot high wall, fence, or greenbelt/landscaped area on all sides of the property.
 - iv. Telecommunications Towers. A minimum six (6) foot high wall, fence, or greenbelt/landscaped area on all sides of the property.
- c. Wall and fence requirements may be substituted with greenbelt/landscaping strips consisting of shrubbery, trees, and other plant items designed to obscure

the use from the abutting residential district. The Planning Commission shall determine if the greenbelt/landscaping strip sufficiently acts as a buffer between the use and the adjacent residential property.

2. Refuse Container Screening Requirements

Refuse containers for other than single-family and two-family uses shall be screened from view. Screening shall consist of a minimum six (6) foot high opaque wall or fence. Live landscape material located so it does not interfere with the function of the refuse container is encouraged in addition to the opaque screen.

3. General Fence Regulations

- a. Fences in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six (6) feet in height, measured from the surface of the ground, and shall not extend

toward the front of the lot nearer than the front of the house or the required minimum front yard setback whichever is greater.

- b. No wall, fence, or hedge planting shall exceed a height of three (3) feet within any residential front yard. Clear vision fences are permitted in front yards, but shall not exceed four (4) feet in height. On a corner lot or parcel, no fence, wall, or planting shall be allowed except as may be permitted by the Zoning Administrator who shall be reasonably assured that such fence, wall, or planting will not interfere with traffic visibility across a corner.
- c. Fences in commercial and industrial districts shall not exceed a height of eight (8) feet measured from the surface of the ground.
- d. Fences shall not interfere with underground utility lines and shall be set back six (6) inches from all property lines. If written permission is obtained from adjacent property owners, fences may be placed on the property lines.
- e. Fences in all residential districts shall not contain barbed wire, razor wire, or be charged with electricity in any fashion.
- f. A construction (fence) permit shall be secured prior to erection, construction, replacement or substantially repairing of any fence in any zoning district, other than on property used for agricultural purposes. No fee shall be charged for any permit granted for the construction of a temporary fence such as a snow fence.(but not limited to a snow fence or garden fence, 18" in height)

Effective: February 18,2004

- g. It shall be the obligation and sole responsibility of persons erecting fences in this Village to determine the location of property lines. The Zoning Administrator may require proof that property lines have been

established prior to issuance of a fence permit. The Village shall not determine property or lot lines, and the issuance of a construction permit to erect a fence shall in no way be construed as a determination of the correct, valid or legal location for the fence, or prejudice, in any way, the rights of adjacent or abutting property owners.

- h. Sight Zones: Within the limits of sight zones, fences (and hedges) shall not exceed two (2) feet in height above grade, except that such restrictions shall not apply to clear vision fences. Such sight zones shall be determined as follows:
 - i. Street/Road Corners: The triangle formed by legs measured twenty-five (25) feet on each side of a street/road corner, measured from the point of intersection of the right-of-way lines.
 - ii. The right triangles formed on each side of driveways, measured ten (10) feet along the property line or right-of-way line for one leg, and the outside edge(s) of the driveway for the other leg.
 - l. Fence material shall be painted or stained with a uniform color on both sides and the finished side of the fence shall face out.
- j. Where a lot borders a lake or stream, fences in the waterfront yard shall not exceed three (3) feet in height nor otherwise unreasonably restrict views of the water from

adjacent properties.

- k. The regulations set forth in this Section shall not apply to fences erected on lands in agricultural districts, the primary use of which

land is the operation of a farm as herein defined.

Section 1406 General Exceptions to Area, Height, and Use

1. Essential Services

Essential Services, as defined in **Article II**, shall be permitted as authorized and regulated by law and other ordinances of the Village. It is the intention of this article to exempt such essential services from the application of this chapter.

2. Voting Place

The Provisions of this chapter 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.

3. Height Limit

The height limitations of this chapter shall not apply for farm buildings, chimneys, church spires, flagpoles, public monuments or wireless transmission towers; provided, however, that the Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a special exception use.

4. Lots Adjoining Alleys

In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this chapter, one-half the width of such alley abutting the lot shall be considered as part of such lot.

5. Access Through Yards

For the purpose of this chapter, access drives may be placed in the required front or side yards so as to provide access to rear yards and/or

accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement serving the like function, and not in excess of nine inches above the grade upon which placed, shall for the purpose of this chapter not be considered to be a structure, and shall be permitted in any required yards.

Section 1407 Hazardous Substances

All businesses or industries that store, use or generate hazardous substances as defined in this Ordinance, in quantities greater than 25 gallons or 220 pounds per month whichever is less, shall meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

Section 1408 Landscaping

1. Purpose.

The purpose of this section is to promote the public health, safety and welfare by establishing minimum standards for the amount, design, installation and maintenance of landscaping.

Landscaping is considered by the Village to be an important element of land development which is a critical factor in maintaining an attractive community character and conserving the value of land and buildings in the Village. In addition to the enhancement of property values, landscaping serves a public purpose by:

- a. Acting as a buffer between adjacent land uses.

- b. Creating privacy between neighboring lots.
- c. Reducing noise pollution, air pollution, and glare.
- d. Reducing flooding by increased floodwater retention.

The landscape standards of this section are considered the minimum necessary to achieve the objectives noted above. In several instances, the standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of their property.

2 **Applicability**

The standards contained in this section shall be applicable to all development which requires a site plan or special exception use permit subject to the following limitations:

- a. These regulations shall not apply to single-family and two-family dwellings.
- b. Expansion or renovation of existing uses that require site plan approval shall adhere to the landscaping requirements of this section insofar as practical. The Planning Commission shall have the authority to increase, decrease or otherwise modify the landscaping requirements of this section.

3. **General Landscaping Requirements**

A minimum of twenty percent (20%) of the parcel shall be landscaped open space. Open space areas shall be landscaped with a minimum of one (1) evergreen tree or shrub for every 1,000 square feet, plus a minimum of one (1) deciduous tree for every 2,000 square feet. A minimum of 33% of the required open space shall be located

between the front building line and the right-of-way line. Corner lots shall have 66% of the required open space between the front building line and right-of-way line.

The following additional landscaping requirements shall be met:

- a. No landscape area shall be used for parking purposes.
- b. No synthetic plant materials such as artificial grass, shrubs, trees, or flowers shall be used to fulfill any landscaping requirements.
- c. Berms, whenever utilized, shall be designed and landscaped to minimize erosion. Berms adjacent to public right-of-way shall have a slope no greater than 3:1 unless designed as part of a retaining wall.
- d. All landscaping materials shall consist of healthy specimens compatible with local climate, soil characteristics, drainage, and water supply. All plant material shall be reasonably resistant to drought and disease.
- e. Grass or other living plants shall be primary ground cover in required landscaped areas. Both sod planting and seeding are acceptable.
- f. Landscaping plans shall be submitted as part of the site plan review process.

4. **Parking Lot Landscaping**

All off-street parking areas except those serving a four family dwelling or less, shall be landscaped according to the following minimum requirements:

- a. Landscape islands within parking lots should generally be at least one (1) parking space in size, with no landscape island less than fifty (50) square feet in area.

- b. Landscape islands shall be no less than five (5) feet wide.
- c. The square footage of landscaped islands within a parking lot shall equal a total of at least sixteen (16) square feet per parking space.
- d. There shall be a minimum of one (1) tree planted in the parking area for every ten (10) parking spaces within parking lots with more than twenty (20) spaces.
- e. Within parking lots, landscape islands should be located to define parking areas and assist in clarifying appropriate circulation patterns.
- f. A landscape island shall be located at the terminus of all parking rows, and shall contain at least one tree.
- g. All landscape islands shall be protected by monolithic curbs or wheel stops and remain free of trash, litter, and car bumper overhangs.
- h. Perimeter landscaping around parking lots shall not be included in the landscaping requirements.

Section 1409 Lot Proportion

The width of any lot, parcel, or land division created after the effective date of this Ordinance shall not be less than twenty-five percent (25%) of the lot or parcel depth.

Section 1410 Non-Conforming Uses 1.

Intent

The lawful use of any building or land at the time of the enactment of this Ordinance may be continued although such use does not conform with the provisions of this ordinance. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this chapter that

nonconformities shall not be enlarged upon, expanded or extended, nor be

used as grounds for adding other structures or uses prohibited elsewhere in the same district. Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

2. Nonconforming lots of record

In any district, a structure and accessory building may be erected on a lot which fails to meet the district requirements for bulk regulations, provided that said lot existed at the effective date of this Ordinance or any affecting amendment. However, the proposed structure and accessory building must still meet the yard dimensions and requirements for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Appeals.

If two or more vacant lots or combinations of vacant lots and portions of vacant lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of such parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

3. Nonconforming uses of land

Where at the time of passage of this chapter lawful use of land exists which

would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided:

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- b. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.
- c. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- d. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

4. Nonconforming structures

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

- a. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or

portion thereof may be altered to decrease its nonconformity.

- b. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

5. Nonconforming uses of structures or of structures and premises in combination

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

- a. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

- c. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter.
- d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- e. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period (except when government action impeded access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- f. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage or dilapidation to an extent of more than 50 percent of the replacement cost at time of destruction.

6. Completion of the Construction of Nonconforming Uses

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of the ordinance from which this chapter is derived and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

7. Repairs and maintenance

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 20 percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

if a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the

regulations of the district in which it is located. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

8. Special Exception Uses are Conforming

Any use which is permitted as a special exception in a district under the terms of this chapter shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

9. Change of Ownership

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

Section 1411 Parking

1. Purpose and Scope

The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles, recreational vehicles, trucks, and trailers in residential and non-residential zoning districts, to ensure by the provisions of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other affects of parking areas.

The following general provisions apply to parking:

- a. At the time any building or structure is erected, enlarged, or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Chapter.
- b. No parking or loading area or space which exists at the time of the adoption of this Chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this Chapter.
- c. Parking areas must be in the same zoning classification as the property it serves.

2. Off-Street Parking Requirements

Off-street parking required in conjunction with all land and building uses shall be provided as prescribed in this section:

- a. For uses not specifically mentioned in this section, off-street parking requirements shall be determined from the requirements for similar uses, as determined by the Planning Commission.
- b. Any area once designated as required off-street parking shall never be changed to any other uses unless and until equal required facilities are provided elsewhere. Off-street parking existing at the effective date of the ordinance from which this chapter was derived in connection with the operation of an existing building, shall not be reduced to an amount less than would be required in this section for such building or use.
- c. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less

than the sum of the requirements for the several individual uses computed separately. However, in cases of dual functioning of off-street parking where operating hours do not overlap, the Board of Appeals may grant a special exception based on the peak hour demand.

- d. Required off-street parking shall be for the use of occupants, employees, visitors and patrons, and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale or the repair of vehicles is prohibited. Off-street parking, whether public or private, for nonresidential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot, without crossing any major street.
- e. When units or measurements determining the number of required parking spaces result in the requirements of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.
- f. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule
(Table B).

**Table B
Minimum Off-Street Parking Requirements**

	P.Osi g/c	Per Unit of Measure
<u>Residential:</u>		
a. One-family, two-family	1	For each dwelling unit.
b. Multiple-family	2	For each dwelling unit.
c. Residential housing for the elderly	1	For each two units of resident housing, plus one space for each employee.
Employee of	1	General occupancy, then 1 1/2 per unit shall be provided.
<u>2. Institutional:</u>		
a. Churches or other Places of Worship	1	For each four seats or six feet of pews in the main unit of worship.
b. Hospitals	1	For each one bed.
c. Convalescent homes	1	For each two beds.
d. Elementary and junior high schools	1	For each employee, teacher or administrator; in addition to the requirements of the auditorium.
Senior high schools	1	For each teacher, employee, administrator, plus one for each ten students in addition to the requirements of the auditorium.
e. Clubs	1	For each three persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes.
f. Private golf, tennis and sporting clubs	1	For each two member families or individual members.
g. Golf courses open to the general public (except miniature or par-3 golf courses)	6	For each one golf hole, plus one for each one employee.
h. Fraternity or sorority	1	For each five members or one for each two beds, whichever is greater.
i. Stadiums, sports arenas, or similar place of outdoor assembly	1	For each three seats or six feet of benches.
j. Theaters, auditoriums	1	For each three seats, plus one for each two employees.

Table B

USE	Parking pace	Per Unit of Measure
3 Business and Commercial:		
a Planned commercial or shopping center located in a C-2 district	1	For each 100 square feet of usable floor area.
b Automobile wash establishments	1	For each one employee, in addition reservoir parking spaces equal in number to five times the maximum capacity of the auto wash for automobiles awaiting entrance to the auto wash shall be provided. Maximum capacity of the auto wash for the purpose of determining the required reservoir parking 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 in feet of each wash line by 20.
c Beauty parlor or barber shop	2	For each of the beauty or barber chairs.
d Bowling alleys	5	For each one bowling lane.
e Dancehalls, pool, billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without seats	1	For each three persons allowed within the maximum occupancy load as established by local, county, state fire, building or health codes.
f Restaurants	1	For each 100 square feet of usable floor space.
g. Furniture and appliance retail stores, household equipment, repair shops, showroom of a plumber, decorator, electrician, clothing and shoe repair, cleaners and laundry, and other similar trades	1	For each 800 square feet of usable floor area. For that floor area used in processing, one additional space shall be provided for each two persons employed therein.
h Gasoline service stations	2	For each lubrication stall, rack or pit; plus one for each gasoline pump.
i Dry cleaners and self service laundry	1	For each two machines.

Table B

USE		Parking Space	Per Unit of Measure
j.	Miniature and par-3 golf courses	3	For each one hole, plus one for each one employee.
k.	Mortuary establishment	1	For each 50 square feet of usable assembly room floor space, parlors and slumber rooms.
l.	Hotel, Motel, or Motor Court	1	For each one occupancy unit, plus one for each employee.
m.	Automobile Repair and Sales	1	For each 200 square feet of usable floor space of sales room, plus one for each one auto service stall in the service room.
n.	Retail stores	1	For each 150 square feet of usable floor space.
o.	Banks	1	For each 100 square feet of usable floor space.
p.	Business offices	1	For each 200 square feet of usable floor space.
q.	Professional offices of doctors, dentists, or similar professions	1	For each 100 square feet of usable floor area in waiting rooms, and one for each examining room, dental chair or similar use area.
4.	Industrial:		
a.	Industrial	5	Plus one for every 1 1/2 employees in the largest working shift, or one for every 550 square feet of usable floor space, or whichever is determined to be greater. Space on site shall also be provided for all construction workers during periods of plant construction.
b.	Wholesale establishments	5	Plus one for every one employee in the largest working shift, or one for every 1,700 square feet of usable floor space, whichever is greater.

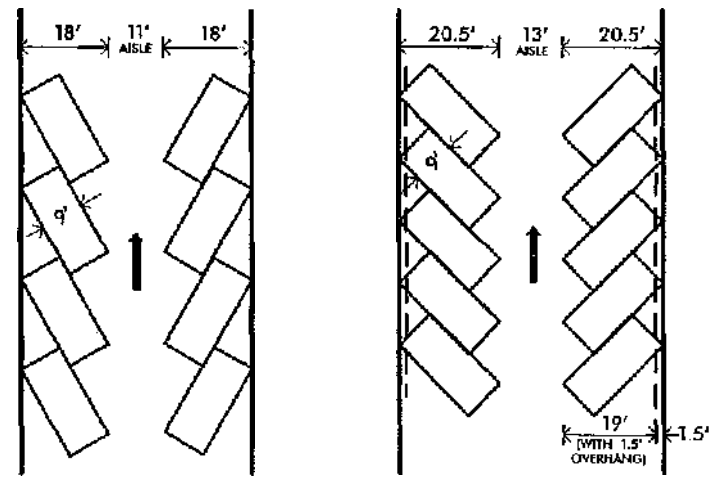
3 **Configuration Standards for Off-Street Parking**

All off-street parking lots as required in this section shall be laid out, constructed and maintained in accordance with **Figure 10** and the following standards and regulations:

- a. No parking lot shall be constructed unless and until a permit therefore is issued by the Zoning Administrator. Application for a permit shall be submitted in such form as may be determined by the Zoning Administrator, and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.
- b. Plans for the layout of off-street parking facilities shall be in accord with the following minimum dimensional requirements as shown in **Figure 10**:
- c. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- d. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned other than single-family

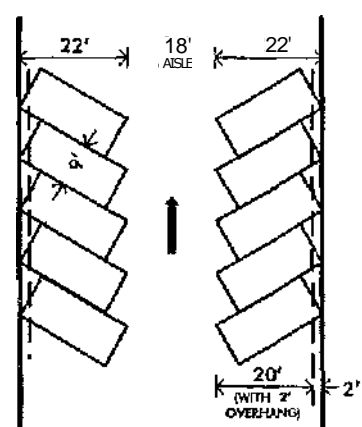
residential use shall not be across land zoned for single-family residential use.

**Figure 10
PARKING LAYOUTS**

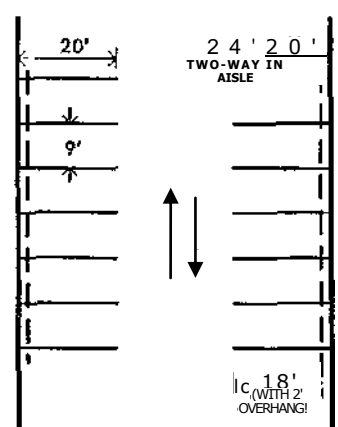


30 DEGREE
(NO OVERHANG NEEDED)

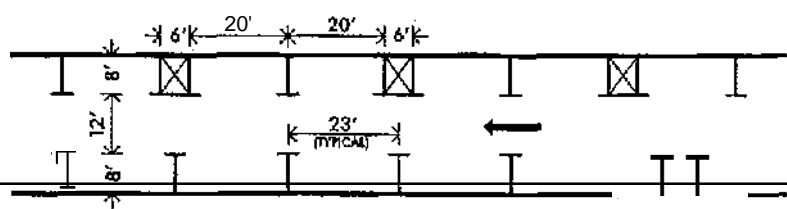
45 DEGREE



60 DEGREE



90 DEGREE



PARALLEL (ONE-WAY)

- e. All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.
- f. Each entrance and exit to and from any off-street parking lot, located in an area zoned for other than single-family residential use, shall be at least 25 feet distant from any adjacent property located in any Single-Family Residential District.
- g. Where the next zoning district is designated as a residential district, a continuous chain link fence or greenbelt strip shall be provided on all sides contiguous to the residential district. The greenbelt strip shall include landscape materials of shrubs and trees that will result in substantial screening of the parking lot and vehicles from the abutting residential districts.
- h. The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the Planning Commission. The parking area shall be surface within one year of the date the permit is issued. The Planning Commission may waive the surfacing requirements if facts are found and a determination is made by the Village Department of Public Works which poses an infrastructure issue to the village. Upon upgrade of the public infrastructure which rectifies the issue as determined above, the Village of Shepherd shall notify the property owner in writing via certified mail of the completion of said upgrade and shall direct the property owner to comply with the parking area surfacing requirement within one year of receipt of upgrade notification issued by the Village of Shepherd

chapter where it is shown that under such unusual and unique circumstances, no good purpose would be served by such requirements.

- k. Off-street parking lots shall also conform to the parking lot landscaping standards as set forth in **Section 1408** of this ordinance.

4. Loading and Unloading Standards for Off-Street Parking

to said property owner. Off-street parking areas shall be drained to as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings, and drainage plans shall meet the approval of the Village Department of Public Works.

Effective: August 16, 2006

- i. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.

The Planning Commission, upon application of the property owner to the Zoning Administrator, may modify the fence or greenbelt requirements pursuant to this

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, 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. Such space shall be provided in accordance with **Table C** and as follows:

- a. All spaces shall be provided as required in **Article XII** noted after minimum rear yards, except as provided for the IND District in this section.

- b. All spaces shall be laid out in the dimension of at least ten by 50 feet, or 500 square feet in area, with clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface. All spaces in the IND District shall be provided in the following ratio of spaces to floor area:

**Table C
Loading and Unloading Standards**

Gross Floor Area (in square feet)	Minimum Loading and Unloading Space Required
0--1,400	None
1,401--20,000	One space
20,001-100,000	One space, plus one space for each 20,000 square feet in excess of 20,001 square feet
100,001 and over	Five spaces

Section 1412 Performance Standards

No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained within such area:

1. Smoke

It shall be unlawful for any person to cause or permit to be discharged into the atmosphere from any single source of emission, smoke of a density equal to or darker than No. 2 of the Ringelmann chart except:

- a. Smoke of a density equal to but not darker than No. 2 on the Ringelmann chart may be emitted for not more than three minutes in any 30-minute period.
- b. Smoke of a density equal to but not darker than No. 3 of the Ringelmann chart may be emitted for not more than three minutes in any 60-minute period, but such emissions shall not be permitted on more than three occasions during any 24-hour period.

Method of Measurement. For the purpose of grading the density of smoke, the Ringelmann chart, as now published and used by the United States Bureau of Mines, which is

hereby made a part of this chapter, shall be the standard. However, the umbrascopes readings of smoke densities may be used when correlated with the Ringelmann chart.

2. Dust, Dirt and Fly Ash

No person shall operate or cause to be operated, maintained or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using such process or furnace or combustion device, recognized and approved equipment means, methods, devices or contrivance to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air, which is operated in conjunction with such process, furnace or combustion device so that the quantity of gasborne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

Method of Measurement. For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50% at full load. The foregoing requirement shall be measured by the ASME Test Code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be

completely eliminated insofar as escape or emission into the open air is concerned. The building inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt, and fly ash have been made.

3. Open Storage

The open storage of any industrial equipment, vehicles, and all materials, including wastes, shall be screened from public view, from a public street and from adjoining properties by an enclosure consisting of a wall not less than the height of the equipment, vehicles, and materials stored. Whenever such open storage is adjacent to a residential zone in either a front, side, or rear lot line relationship, whether immediately abutting or across a right-of-way from such zone, there shall be provided an obscuring masonry wall or wood fence of at least six feet in height.

4. Glare and radioactive materials

Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

5. Fire and Explosive Hazards

The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply

with the state rules and regulations, as established by state law.

6. Noise

Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

7. Odors

Creation of offensive odors shall be prohibited.

Section 1413 Private Roads

1. Purpose

The purpose of this section is to regulate the construction, maintenance, and use of private roads in the Village of Shepherd, and to promote and protect the public health, safety and welfare.

2. Applicability

The provisions of this section shall apply to the creation, construction, extension and/or the alteration of all private roads in the Village of Shepherd.

3. Fees

- a. The Village Council shall establish by resolution a schedule of fees to be charged to proprietors with respect to the administration, review and inspection of private roads.
- b. Proprietors making application for the creation, construction, extension and/or the alteration of private roads shall be required to post either a performance or cash bond, or irrevocable letter of credit, in an amount deemed appropriate by the Village to be sufficient for completion of the road, said bond

or irrevocable letter of credit to be discharged upon final approval of the private road and payment of all fees.

4. Minimum Design Standards for Private Roads

- a. The design and construction of all private roads shall comply with the most recently published American Association of State Highway and Transportation Officials (AASHTO), standards for the criteria applicable to the private road, subject to the approval of the Village.
- b. If the private road provides direct access to a County road, approval of the road connection placement and design must be approved by the Isabella County Road Commission prior to Village approval. If the private road provides direct access to a state highway then Michigan Department of Transportation (MOOT) approval must be obtained.
- c. Private roads with only one connection to a County road or state highway or another approved private road meeting the requirements of this section shall not be longer than fifteen hundred (1,500') feet.
- d. All private roads shall be designated by name, subject to approval of the Village and the Isabella County Road Commission. The proprietor shall furnish and erect street name and stop signs at all intersections with both public and private roads. The design of the signs shall be the same as those used by the Isabella County Road Commission for similar purposes. Signs marked "Private Road" shall be erected and maintained by the proprietor at

the entrance to all private roads of

the development.

5. Non-Conforming Private Roads Standards

Notwithstanding any other provisions of this section, private roads, or easements which are contained in land divisions approved by the Village prior to the enactment of this Ordinance, shall continue to meet the specification approved at the time of application. Upon expansion, reconstruction, or alteration of an existing private road, new construction shall comply with the most recently published American Association of State Highway and Transportation Officials (AASHTO) standards for the criteria applicable to the private road. This provision shall be certified on the private road construction documents.

6. Location

- a. A plan of construction, maintenance, and continuing maintenance, including maintenance of road surface, ditches, drainage, repair of potholes, reconstruction, re-paving, snow removal and liability insurance shall be presented by the proprietor. This plan shall guarantee the maintenance in perpetuity of said road, without cost to the Village.
- b. A mandatory Homeowners Association defined as: "a private non-profit corporation, association or other non-profit legal entity established by the developer to manage and support the activities of a housing development, including road maintenance" shall also be established.
- c. All maintenance plans shall either be set forth in deed restrictions for each parcel of the development or placed in a master deed for the

condominium development and shall run with the land in perpetuity. The deed restrictions or master deed shall, at a minimum, guarantee that the Village has no liability for drainage, ditches, and maintenance of the road, nor any liability arising out of the existence and/or condition of the road or the use of the road.

- d. The association shall be responsible for ownership, maintenance, liabilities and payment of taxes on all private roadways and all common areas, including open spaces, in perpetuity.
- e. A special Assessment District may also be formed by the developer and Village to ensure that the Association's obligations are met without liability or expense on the part of the Village.
- f. A document describing the private road and the provisions for maintenance shall be recorded with the register of deeds and provided to all purchasers within the development. The maintenance provisions shall apportion the maintenance responsibilities among the benefiting and/or abutting property owners and shall run with the land. The proposed maintenance agreement shall be reviewed and approved by the Village Attorney prior to being recorded with the Village Clerk and the Isabella County Register of Deeds providing for:
 - i. A method of initiating and financing of such road in order to keep the road up to properly engineered specifications and free of snow or debris.
 - ii. A workable method of apportioning the costs of maintenance and

improvements to current and future users.

- iii. A notice that no public funds of the Village are to be used to build, repair, or maintain the private road.
- iv. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Maintenance of Private Roads Act, PA 139 of 1972, as amended.)
- v. All conditions and requirements concerning public roads shall be deemed the same for private roads, i.e., location on a public road, setbacks (front yard measured from the right-of-way or easement line), etc.

7. Review and Inspection

- a. The Zoning Administrator shall submit one (1) copy of the application and road plans to the Isabella County Road Commission for approval of any approaches to public roads or the MDOT for any approaches to state highways and two (2) copies to the designated Village Engineer for review. There shall be an inspection of the sub-base and a final inspection and other inspections as required by the Village Engineer. All inspections and review costs shall be the responsibility of the applicant.
- b. Review of the plan shall include documentation to the Village that public services will serve the dwellings that use the road such as postal service, garbage service, school buses, fire, and ambulance with the standards established in this Ordinance.

8. Permits

- a. Issuance of Land Use Permits. No final land use permit shall be issued for any parcel until the private road has been constructed and approved in accordance with the standards established in this section.
- b. Issuance of Private Road Certificate of Compliance. A Private Road Certificate of Compliance shall be issued by the Zoning Administrator upon receiving certification from the engineer in charge of the project that construction has been completed in conformance with the standards set forth herein.
- c. A permit shall be obtained as to compliance with the Michigan Soil Erosion and Sedimentation Control Act prior to the commencement of private road construction.
- d. Permits shall be obtained from the County Road Commission or MDOT before entrances are constructed onto any county or state rights-of-way.
- e. A permit shall be obtained from the County Drain Commissioner, if necessary.

Section 1414 Required Area or Space

Neither lot nor lots in common ownership, nor yard, court, parking space or any other place shall be divided, altered, or reduced as to be less than the minimum allowable dimensions as defined in this Ordinance. If such areas are already less than the minimum allowable dimensions, they shall not be divided, altered or reduced further.

Section 1415 Signs

1. Purpose

The purpose of this article is to regulate signs and outdoor advertising within the Village of Shepherd to protect public health, safety, and welfare; minimize abundance and size of signs to reduce motorist distraction and loss of sight

distance; promote public convenience; preserve property values; and enhance the aesthetic appearance within the Village. These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, and other aspects of signs in the Village. An existing sign in a commercial district may be used by a new business. The sign may be removed from the building in order to change the wording or illustrations on the sign to describe the new business. However, the physical dimensions of the sign shall not be changed. The sign shall be placed back in the same location on the building as occupied prior to removal.

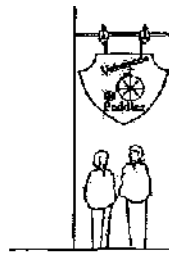
2. Sign Types

- a. **Canopy Sign:** Any sign attached to or constructed within or on a canopy or on an awning, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area (**Figure 11**). A marquee is not a canopy and a protective roof over gasoline filling station areas shall not be considered a canopy for purposes of this article. Canopy signs shall not extend into a public right-of-way or encroach over abutting property lines and shall maintain an under clearance of eight (8) feet measured from the sidewalk surface.
- b. **Community Service Group Sign:** A sign which displays the name or logo of an agency, organization, or group whose primary purpose is to promote or provide community or public service including, but not limited to, the Rotary Club, Jaycee's, or Lion's Club.
- c. **Directional Sign:** A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the lot on which the sign is located, such as parking or exit and entrance signs, but not including a commercial message.

d. Freestanding Sign: A sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles, or braces which are less than 50% of the width of the sign (**Figure 11**).

subject matter not conducted on the premises on which the sign is located.

e. Governmental Sign: A sign erected or required to be erected by the Village of Shepherd, Isabella County, or the state or federal government.



Projecting Sign



Freestanding Sign

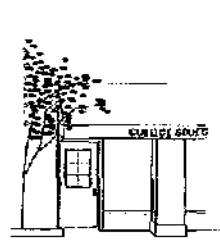


Monument Sign

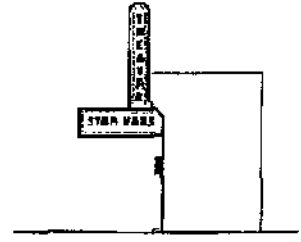
f. Marquee Sign: A business sign affixed to a marquee structure constructed and framed in steel or other durable material extending over the ground, sidewalk, or walkway (**Figure 11**).



Wall Sign



Canopy Sign



Marquee Sign

Marquee signs shall not extend into any public right-of-way more than seven (7) feet or one-half the width of the sidewalk. The minimum under clearance of such sign shall be eight (8) feet measured from the sidewalk surface.

g. Memorial Sign: A non-illuminated sign, tablet, or plaque memorializing a person, event, structure, or site.

h. Monument Sign: A sign, the bottom of which is less than 24 inches above the finished grade, and which is supported by a structure having a width of more than 50% of the width of the sign (**Figure 11**).

i. Off Premise Sign: Any sign, including billboards, relating to

j. On Premise Sign: An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

k. Projecting Sign: A sign which is affixed to any building or structure other than a marquee, and any part of which extends beyond the building wall and the horizontal sign surface is not parallel to the building or structure (**Figure 11**). Projecting signs shall not project more than five (5) feet from the building, or one-third the sidewalk width, whichever is less.

l. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building (**Figure 11**). A wall sign shall extend

no greater than 12 inches from the exterior face of a wall to which it is attached, shall not project beyond the wall to which it is attached, and shall not extend above the roof line of the building to which it is attached.

3. Prohibited Signs

The following signs shall be prohibited throughout the Village:

- a. Commercial vehicles used as signs which are parked on a business premises or an industrial lot for a time period exceeding forty-eight (48) hours for the intended purpose of advertising a product or serving as a business sign.
- b. Exterior string lights used in connection with a commercial enterprise, other than holiday decorations.
- c. Off Premise Signs, as defined in this ordinance, for the purpose of advertising a product, event, person or subject, unless otherwise provided for in this ordinance or covered under the State Highway Act.
- d. Signs having moving members or parts excluding barber poles and electronic time/temperature signs which do not contain business messages.
- e. Signs using high intensity lights or flashing lights, spinners, or animated devices.
- f. Signs which obstruct vision or impair the vision of motorists or non-motorized travelers on any public right-of-way, driveway, or within a parking lot or loading area.

g. Signs which may be confused with the lighting of emergency vehicles or any kind of traffic sign or signal.

h. Signs which contain any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexually explicit manner.

4. Exempt Signs

The following signs shall be exempt from the requirements of this Section.

- a. Banners containing messages or slogans promoting the Central Business District, civic events, and other public activities, displayed by the Village of Shepherd in the Central Business District.
- b. Community service group signs four square feet or less.
- c. Directional signs two square feet or less.
- d. Governmental signs.
- e. Memorial signs.
- f. Nameplate signs two square feet or less.
- g. Political signs used in connection with local, state, or national elections.
- h. Real estate signs, provided they shall be removed within 30 days after completion of the sale or lease of the property.
- i. Signs for essential services two square feet or less.
- j. Special event signs calling attention to special events of interest to the general public which are sponsored by governmental

agencies, schools, or other non-profit groups.

5. **Permitted Signs in the AG, R-1, R-2, R-3, and R-4 District.**

The following signs are permitted in the AG, R-1, R-2, R-3, and R-4 Districts. In addition to the requirements below, all signs shall be setback a minimum of five (5) feet from the front property line and twenty-five (25) feet from all other property lines.

- a. Wall Signs: One wall sign per street frontage is allowed for uses other than residential. Wall signs shall not exceed an area of twenty-four (24) square feet.
- b. Freestanding or Monument Signs: One freestanding or monument sign per street frontage is permitted for uses other than residential. Freestanding signs shall not exceed a height of eight (8) feet and an area of twelve (12) square feet. Monument signs shall not exceed a height of five (5) feet and an area of sixteen (16) square feet.
- c. Residential Subdivision Signs. One sign at each entrance road to a platted subdivision, multi-family development, or any other residential development is allowed. Such sign shall not exceed a height of five (5) feet and an area of sixteen (16) square feet.

6. **Permitted Signs in the C-1 Central Business District.**

One (1) of the following signs per street frontage may be permitted for establishments in the Central Business District.

- a. Projecting sign. Projecting signs shall not exceed a display area of four (4) square feet per face.

- b. Marquee sign. Marquee signs shall not exceed a size of ten (10) percent of the building façade.
- c. Monument sign. Monument signs shall not exceed a height of five (5) feet and an area of sixteen (16) square feet.
- d. Freestanding sign. Freestanding signs shall not exceed a height of eight (8) feet and an area of twelve (12) square feet.
- e. Canopy sign. Canopy signs shall not exceed a size of ten (10) percent of the building façade or twenty-four (24) square feet, whichever is more restrictive. Only the copy area of the canopy shall be identified as the sign area used for sign area calculation purposes.
- f. Wall Sign. Wall signs shall not exceed a size of ten (10) percent of the building façade or twenty-four (24) square feet, whichever is more restrictive.

7. **Permitted Signs in the C-2 and IND District.**

The following signs are permitted in the C-2 and IND District. In addition to the requirements below, all signs shall be setback a minimum of five (5) feet from the front property line and twenty-five (25) feet from all other property lines.

- a. Wall Signs: One wall sign per street frontage is allowed for establishments. Wall signs shall not exceed an area of thirty-six (36) square feet.
- b. Freestanding or Monument Signs: One freestanding or monument sign per street frontage is permitted for establishments.

Freestanding signs shall not exceed a height of twelve (12) feet and an area of thirty (30) square feet. Monument signs shall not exceed a height of six (6) feet and an area of twenty-four (24) square feet.

An existing sign in a commercial district may be used by a new business. The sign may be removed from the building in order to change the wording or illustrations on the sign to describe the new business. However, the physical dimensions of the sign shall not be changed. The sign shall be placed back in the same location on the building as occupied prior to removal.

Effective: August 16, 2006

Section 1416 Substandard Dwelling Occupancy during the Construction of a Dwelling

For the express purpose of promoting the health, safety and general welfare of the inhabitants of the Village, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, garage-house, tent, camper, travel trailer, recreational vehicle, mobile home not installed according the requirements of this Ordinance, or other substandard structure shall hereafter be erected or moved upon any premises and used for dwelling purposes except under the following applicable conditions:

1. The location shall conform to the provisions governing yard requirements of standard dwellings in the district where located.
2. The use shall be for the sole purpose of providing dwelling facilities for the

owner of the premises during the period in which a dwelling conforming to the provisions of this Ordinance is in process of erection and completion, but not to exceed twelve (12) months. One (1) additional twelve (12) month extension may be obtained from the Zoning Administrator. The substandard dwelling shall be removed upon completion of construction of a dwelling complying with the requirements of this Ordinance.

3. Installation of septic system and water well shall be constructed and maintained in accordance with the standards of materials and installation recommended by District Health Department, and shall precede occupancy of the substandard dwelling.
4. Application for the erection and use of a substandard dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify in a space allotted for that purpose, and on the copy retained for filing by the Village, that he/she has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person..
5. No annexes or additions shall be added to temporary substandard dwellings.

Section 1417 Temporary Use of Recreational Vehicles as Dwellings

Travel trailers, motor homes and other similar recreational vehicles designed with sleeping accommodations shall not be

occupied for transient purposes for a continuous period exceeding thirty (30) days per each ninety (90) day period unless connected to electrical service and District Health Department approved sanitary facilities. Temporary occupancy of such vehicles connected to electrical and sanitary facilities shall not exceed ninety (90) days in any calendar year, except under the provisions of **Section 1416**. Permits for temporary use shall be obtained from the Zoning Administrator.

Article XV Board of Appeals

Section 1500 Authority

There is hereby established a Zoning Board of Appeals, the membership, powers and duties of which are described in Michigan Public Act 207 of 1921, as amended. The Board of Appeals shall be appointed by the Village Council and perform its duties and exercise its powers as provided in the above Act in such a way that the objectives of this Ordinance shall be observed, the public health, safety and welfare assured and justice served.

Section 1501 Board Membership

The Shepherd Village Board of Appeals shall consist of no less than five (5) regular members and no more than two (2) alternate members.

Section 1502 Terms of Office

Terms shall be for three (3) years. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

Members of the Board of Appeals may be removed by the Village Council for non-performance of duty or misconduct in office, upon written charges and after a public hearing. A member shall disqualify himself/herself from any vote in which he/she has a conflict of interest. Failure to do so shall constitute misconduct in office.

Section 1503 Rules and Regulations

1 Meetings of the Board shall be held

The Board may adopt rules and regulations, copies of which shall be made available to the public at the office of the board.

within a reasonable time following the presentation of matters to the Board for its consideration and at such other times as the Board may determine. The time and place of meetings shall be specified by the Board in its rules and regulations.

- 2 The concurring vote of a majority of the members of the board shall be necessary to reverse an administrative decision or grant a variance except that the concurring vote of 2/3 of the members of the board shall be necessary to grant a use variance.
3. The Board shall keep minutes of its proceedings which shall record all of the following:
 - a. Any action or decision of the Board and the vote of each member.
 - b. The absence or failure of a member to vote.
 - c. Any other official action.
4. All records shall be filed promptly in the office of the Village Clerk and shall be a public record.
5. The Board may call on any other officers or Boards of the Village for assistance in the performance of its duties.
6. For a period of ninety (90) days following a decision by the Board, no reconsideration of that decision shall be given unless the Board, in its sole discretion, determines that there has been a material change in applicable facts and circumstances.

Section 1504 Jurisdiction

The Board of Appeals, in conformity with the provisions of this Ordinance and of Act 207 of 1921, as amended, shall act upon all questions as they arise in the administration of this Zoning Ordinance including:

1. Interpretation of the Zoning Map.
2. Interpretation of the Zoning Text.
3. Appeals of any decision of an official or body charged with the administration of the Zoning Ordinance.
4. Issuance of a variance to deviate from the requirements of this Zoning Ordinance.

Section 1505 Granting of Variances

Except as otherwise specifically provided by this Ordinance, the Board of Appeals may grant a variance from such provisions of this Ordinance as, building setback requirements, height and bulk requirements, parking requirements, landscaping requirements, and sign regulations. An issuance of a variance shall occur only if the Board finds from reasonable evidence that all of the following facts and conditions exist:

1. There are practical considerations regarding the property that will not allow the building/structure to be erected without causing an excessive burden to the development of the property.
2. The condition or situation of the property is unique and not shared by neighboring properties in the same zone and amending the ordinance text or rezoning is not a reasonable solution.
3. A variance would not be significantly detrimental to adjacent property and the surrounding neighborhood.
4. The practical difficulty was not created by an action of the applicant and either existed at the time of adoption of the requirement from which the variance is requested, or is necessary as the result of governmental action such as a road widening.

5. The variance is the minimum necessary to permit reasonable use of the land and buildings.

Section 1506 Procedure

The following procedure shall be followed for an ordinance interpretation, appeal of an administrative decision, or variance request:

1. An appeal from any ruling of the Zoning Administrator or other administrative officer or body administering any portion of this Ordinance may be requested by any person or any governmental department affected or aggrieved.
2. An application for a variance authorized by this Ordinance may be taken by any person or governmental department having any legal interest in the property concerned.
3. The Board of Appeals shall not consider any application or appeal without the payment by the applicant to the Village Clerk of a fee, if any, as determined by resolution of the Village Council. Such application or appeal shall be filed with the Zoning Administrator who shall transmit the same, together with all plans, specifications and other papers pertaining to the application or appeal, to the Board of Appeals.
4. When an application or appeal has been filed in proper form and with the required data, the Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice of the appeal to the persons to whom real property within 300 feet of

the premises in question is assessed, as shown on the last tax assessment roll. Any interested party may appear at such hearings in person or by agent or by attorney.

Section 1507 Decision of the Board

The Board shall decide all applications and appeals within a reasonable time. A copy of the Board's decision shall be transmitted to the applicant, and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and be observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant whenever a permit is authorized by the Board.

Section 1508 Stay of Proceedings

An appeal taken to the Board shall stay all proceedings in furtherance of the action appealed, unless the Zoning Administrator certifies to the Board of Appeals after notice of appeal that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Board of Appeals or by the Circuit Court on application, after notice to the Zoning Administrator.

Section 1509 Final Action on Appeals

The decision of the Board of Appeals shall not be final, and any person aggrieved by any such decision shall have the right to petition to the Circuit Court on questions of law and fact.

**Article XVI
Administration and Enforcement**

**Section 1600 Enforcement of
Chapter**

The provisions of this chapter shall be administered and enforced by a Zoning Administrator, as designated by the Village Council, or by such deputies of his department as the Zoning Administrator may delegate to enforce the provisions of this chapter.

**Section 1601 Duties of the Zoning
Administrator**

1. The Zoning Administrator shall receive all applications for development or redevelopment pertaining to this ordinance. The Zoning Administrator shall review all applications, site plans, and other material for new developments, special exception permits, rezonings, and variances, to ensure that all the requirements of this article have been met. The Zoning Administrator shall then forward the necessary information to the bodies in charge of the requested action.
2. The Zoning Administrator shall have the power to grant building permits, occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this chapter.
3. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as restrictive covenants or private

agreements which may occur upon the granting of such permit.

Section 1602 Site Plans

A written application and site plan shall be submitted to the Zoning Administrator in the case of any:

1. New development or redevelopment, except one-family and two-family residential, requiring a building permit.
2. Rezoning request.
3. Variance request.
4. Request for a special exception use permit.

All site plans shall be produced in triplicate, drawn to scale, showing the following:

1. Legal description of the site.
2. A scale of not less than one inch equals 50 feet if the subject property is less than three acres and one inch equals 100 feet if three acres or more.
3. Date, north point and scale.
4. The dimensions of all lot and property lines showing the relationship of the subject property to abutting properties.
5. The location of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property.
6. The location of all existing and proposed drives and parking areas.
7. The location and right-of-way widths of all abutting streets and alleys.

8. The names and addresses of the architect, planner, designer or engineer responsible for the preparation of the site plan.
9. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

Section 1603 Site Plan Review

1 Circumstances Requiring Site Plan Review:

- a. All new uses in the AG, R-1, R-2, R-3, R-4, C-1, C-2, and IND Districts except single family dwellings, and two-family dwellings.
- b. Expansion or renovation of an existing use, other than one-family and two-family residential use, which increases the existing floor space more than twenty-five percent (25%).
- c. Changes from an existing use to another use permitted in the proposed district.

2. Review Procedure

All proper applications, fees, and site plans, required as stated within this Ordinance, shall be submitted by the petitioner (property owner or designated agent) to the office of Zoning Administrator in three (3) copies.

Upon determining that the proposed use complies with the ordinance, and all other pertinent codes and ordinances of the Village, the Zoning Administrator shall cause the request for approval to be put on the agenda of the next regularly scheduled Planning Commission meeting, provided that such meeting is scheduled to be held at least forty-eight (48) hours after the applicant has submitted the site plan to the Zoning Administrator's office. If the regularly scheduled Planning Commission meeting is to be held within forty-eight (48) hours of

such submittal by the applicant, the Zoning Administrator shall schedule the applicant's hearing for the next following regularly scheduled Planning Commission meeting.

The Planning Commission shall have the responsibility to approve, approve with specified changes and/or conditions, or disapprove the applicant's request, using the standard for site plan review included in this Ordinance as a basis for its decision.

Any conditions or changes stipulated by the Planning Commission shall be recorded in the minutes of the meeting and a copy of each said conditions or changes given to the applicant and Zoning Administrator. An approved site plan request shall contain the signatures of the Chairman of the Planning Commission, Zoning Administrator and the developer or agent.

Of the three (3) copies of the site plan submitted by the applicant, one (1) copy shall be kept on file by the Planning Commission, one (1) copy retained in the Zoning Administrator's office and one (1) copy retained by the applicant.

3 Criterion for Site Plan Approval

The Planning Commission shall approve a site plan if it determines that:

- a. The proposed project complies with the requirements of this ordinance.
- b. The proposed project promotes the intent and purposes of this ordinance.

- c. The proposed project is compatible with adjacent land uses and the natural environment.
- d. The proposed project has no adverse impact on public services and amenities including transportation and public utilities.

4. Fees

Accompanying the request for approval of a site plan, a fee set by the Village Council shall be submitted. Said fee is for the purpose of defraying administrative costs in processing the request for approval. Such fee may be used for reimbursing another party retained by the Planning Commission for expert consultation relative to the application.

5. Revocation

If the Zoning Administrator shall find that the conditions and stipulations of an approved site plan are not being adhered to, the Planning Commission shall give notice to the applicant of its intent to revoke the prior approval given to the site plan. Intent to revoke shall be made known to the applicant by a registered letter sent to the applicant and signed by the Chairman of the Planning Commission. Said letter shall be received by the applicant fourteen (14) days prior to the stated date of revocation and shall contain the reasons for revoking the site plan approval.

If the applicant notifies the Planning Commission within fourteen (14) days of the receipt of the letter of his/her intent to rectify the violation, the Planning Commission, through official act, may defer the revocation.

6. Appeal

The decision of the Planning Commission may be appealed by the property owner or his/her designated agent to the Village Zoning Board of Appeals. Request for appeal shall be made by written letter from the applicant to

the Chairman of the Board of Appeals within five (5) days of disapproval, approvals by modification, or revocation of the site plan by the Planning Commission.

7. Site Plan Amendments

An approved site plan may be submitted for minor amendment to the Zoning Administrator for review and signature by the Planning Commission Chair. If, in the judgment of either the Zoning Administrator or the Planning Commission Chair, the site plan amendment is major, the provisions this article shall be followed.

Section 1604 Special Exception Use Permits

1. Purpose

Special exception uses are those uses of land which are essentially compatible with the uses permitted in a zoning district, but possess characteristics of locational qualities which require individual review and restriction in order to ensure compatibility with the character of the surrounding area, public services and facilities and adjacent uses of land. The purpose of this section is to establish equitable procedures and criteria, which shall be applied in the determination of requests to establish special exception uses. The criteria for decisions provided for under the provisions of this section shall be in addition to this Ordinance, as well as all other regulations in this Ordinance which are applicable to the special exception use under consideration.

2. Procedure

The following steps shall be taken by the applicant, zoning officials and

review body when considering a proposed special exception use:

- a. All applications for special exception use permits shall be filed with the Village Zoning Administrator and shall include the required site plan, fee and any other pertinent information upon which the applicant intends to rely for a Special Exception Use Permit.
- b. The Zoning Administrator shall, after preliminary review, forward the complete application to the Planning Commission to review the special exception use.
- c. The Village Planning Commission shall review the site plan according to the criterion in **Section 1603** of this article. In addition, the Planning Commission shall review the proposed special exception use according to criterion set forth in this section of the article.
- d. In the case that a discretionary decision must be made, the Planning Commission shall give public notice in a newspaper of general circulation of official receipt of an application for a special exception use permit, for which a scheduled public hearing will be held. This notice shall:
 - i. Describe the nature of the special exception use permit.
 - ii. Indicate the property in question.
 - iii. State the time and place where the special exception use request will be considered.
 - iv. Indicate when and where written comments will be received concerning the request.
- e. The public hearing notice shall also be mailed or delivered to property owners and occupants within three hundred (300) feet of

the property in question. The public hearing notices shall be made between five (5) and fifteen (15) days prior to the date of the public hearing. An affidavit of mailing or delivery of notice shall be maintained by the Village Clerk.

- f. After the hearing, the Planning Commission shall:
 - i. Approve special land use permit application and final site plan. The Zoning Administrator shall then be directed to issue the special approval use permit
 - or-
 - ii. Approve special use permit application and final plan subject to conditions, which are imposed in order to insure the special land use, complies with standards stated in this Ordinance. The Zoning Administrator shall be directed to issue the special approval use permit
 - or-
 - iii. Disapprove application and final site plan.
- g. All decisions shall be accompanied with a concluding statement citing the reasons for decision and any condition imposed.

3 **Criteria for Approval**

In addition to compliance with the specific district regulations and general regulations as outlined in this zoning ordinance, the following criteria shall be met in order for Planning Commission approval of a special exception use:

- a. The special exception use will comply with the requirements, intent, and purposes of this ordinance.
- b. The special exception use will comply with and not adversely effect the intent and purposes of

the proposed district in which it is located.

- c. The special exception use will comply with the standards and purposes set forth in the Village Master Plan.
- d. The special exception use will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by such special exception use.
- e. The special exception use will be consistent with the health, safety and welfare of the Village.

4. Appeal

The decision of the Planning Commission may be appealed by the property owner or his or her designated agent to the Board of Appeals.

Section 1605 Building Permits

The following shall apply in the issuance of any permit:

1. Not to be issued

No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this chapter.

2. Required

No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or

regulated by the Village building code, state housing law, or this chapter, except for minor repairs or changes not involving any of such features.

This section is amended as follows:

Effective: February 18, 2004

3. Expiration of Zoning Permit

Any zoning permits issued by the Village of Shepherd Zoning Administrator or by the Village Planning Commission shall expire at the end of one (1) year from the date they are issued unless a building permit has been issued by the county for construction on the premises and substantial compliance has been made with such building permit.

Effective: February 18, 2004

Section 1606 Certificates of Occupancy

No land, building, or part thereof shall hereafter be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate.

1. For New Use of Land

No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

2. For New Use of Buildings

No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

3. Not to be issued

No certificates of occupancy shall be issued for any building, structure, or part thereof, or for the use of any land, which is

not in accordance with all the provisions of this chapter.

4. Required

No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.

5. Certificates Including Zoning

Certificates of occupancy as required by the Village building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.

6. For existing buildings

Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this chapter.

7. Records

A record of all certificates issued shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

8. For dwelling accessory buildings

Buildings or structures accessory to dwelling shall not require separate certificates of occupancy, but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

9. Application

Application for certificates of occupancy shall be made in writing to the Zoning Administrator on forms furnished by him, and such certificates shall be issued within five days after receipt of such application if it is

found that the building or structure or part thereof, or the use of land, is in accordance with the provisions of this chapter.

10. Refusal

If such certificate is refused for cause, the applicant therefor shall be notified of such refusal and cause thereof within the five-day period.

Section 1607 Final Inspection

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure or part thereof, shall notify the Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

Section 1608 Fees

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter may be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the Village Council and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

Section 1609 Interpretation and Application of Chapter Provisions

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than the previous zoning ordinance, or with any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits; the provisions of this

chapter shall control.

Section 1610 Changes and Amendments

The Village Council may from time to time, on recommendations from the Planning Commission, or on its own motion, or on petition, amend, supplement or change this chapter in accordance with the procedure established in Public Act 207 of 1921, as amended.

Section 1611 Petition for Amendment; Fees

Upon presentation of a petition for amendment of this chapter by the owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the Village Council and shall be placed in the general fund to partly defray the expense of publishing the required notices of public hearings, professional review of the petition, if needed, and the expenses of the public hearing.

Section 1612 Municipal Civil Infraction

1. A person who violates any provision of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine as set by resolution of the Village Council, plus costs and other sanctions, for each infraction.
2. Prior to the issuance of a municipal civil infraction notice or citation, the Village shall give written notice, by first class mail, to any person in violation of any of the provisions of this chapter, giving them 14 days to correct the violation.

Section 1613 Public Nuisance Per Se

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed

subsequent to the time of passage of this chapter and in violation of any of the provisions of this chapter, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

Section 1614 Fines; Imprisonment

1. The owner of any building, structure or premises, or part thereof, where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and, upon conviction, shall be liable to the fines and imprisonment as established by the Village Council and the courts of law.
2. A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

Section 1615 Rights and Remedies are Cumulative

The rights and remedies provided in this article are cumulative and in addition to any other remedies provided by law.

Effective: December 19, 2006

