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**VILLAGE OF MULLIKEN
EATON COUNTY, MICHIGAN**

ORDINANCE __2020-001__

**AN ORDINANCE ADOPTING A CODIFICATION AND REVISION OF THE
ORDINANCES OF THE VILLAGE OF MULLIKEN, COUNTY OF EATON, STATE OF
MICHIGAN**

The Village of Mulliken ordains:

**SECTION I
Adoption of Code**

§ 1-1. Adoption of Code.

Pursuant to MCL 66.3a, the Village of Mulliken adopts by reference the Village of Mulliken Code of Ordinance (the "Code") as revised, codified and consolidated into chapters by General Code and consisting of Chapters 1 through 4, which constitutes a complete codification of the ordinances of the Village of Mulliken and supersede prior assigned Ordinance numbers. Chapters 1 through 4 shall be titled as follows:

- Chapter 1 – Marijuana
- Chapter 2 – Outdoor Burning
- Chapter 3 – Public Nuisances
- Chapter 4 – Zoning Ordinance (constituting Sections 1 through 21)

§ 1-2. When effective.

This Ordinance shall become effective thirty (30) days after publication.

§ 1-3. Copy of Code on file.

A copy of the Code in loose-leaf form shall be filed in the office of the Village Clerk for use and examination by the public during normal business hours.

§ 1-4. Amendments to Code.

Any and all additions, amendments or supplements to the Code shall be deemed to be incorporated into such Code so that reference to the "Code of the Village of Mulliken" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto.

§ 1-5. Publication; filing.

Within fifteen (15) days of the adoption of this Ordinance, the Clerk of the Village shall publish a true copy of this Ordinance or a summary of this Ordinance in a newspaper of general circulation in the Village. Immediately after the ordinance or synopsis of the ordinance is published, the clerk shall enter in the record of ordinances, in a blank space to be left for that purpose under the record of the ordinance, a signed certificate, stating the date on which and the name of the newspaper in which the ordinance was published

§ 1-6. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-7. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by the Village Council, or may be furnished electronically. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-8. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance or the Code is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance or the Code.

§ 1-9. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

§ 1-10. Changes to Table of Contents in Chapter 4.

In conjunction with the re-codification of chapters pursuant to section 1-1 above, the Table of Contents of the Village's Zoning Ordinance (newly codified Chapter 4) shall be amended to remove Articles XXII and XXIII which shall be separately codified as Chapters 1 and 2 respectively (and as set forth in section 1-1 above.)

VILLAGE OF MULLIKEN

CHAPTER 1

ORDINANCE PROHIBITING MARIJUANA ESTABLISHMENTS UNDER INITIATED LAW 1 OF 2018, THE MICHIGAN REGULATION AND TAXATION OF MARIJUANA ACT

Section 1. Findings.

1. On November 6, 2018, Michigan voters approved Initiated Law 1 of 2018, known as the Michigan Regulation and Taxation of Marijuana Act (“2018 Marijuana Act”). Among other things, the 2018 Marijuana Act makes marijuana legal under state and local law for adults 21 years of age or older, makes industrial hemp legal under state and local law, and controls the commercial production and distribution of marijuana under a system that licenses, regulates, and taxes the businesses involved.
2. Section 6 of the 2018 Marijuana Act authorizes a municipality to completely prohibit or limit the number of marijuana establishments within its boundaries. A “marijuana establishment” under the 2018 Marijuana Act means a marijuana grower, marijuana safety compliance facility, marijuana processor, marijuana microbusiness, marijuana retailer, marijuana secure transporter, or any other type of marijuana-related business licensed by the Michigan Department of Licensing and Regulatory Affairs.
3. The State of Michigan’s Marijuana Regulatory Agency (“MRA”) anticipates releasing emergency rules for the regulation of adult-use marijuana on or about June 1, 2019. Ninety days after issuance of the emergency rules, the MRA may begin accepting applications for marijuana establishments.
4. The Village is continuing to evaluate the potential benefits, challenges, and costs of permitting marijuana establishments within its boundaries, and wishes to review the emergency rules as part of that process. To allow sufficient time for such review and evaluation, and to ensure that the MRA does not issue licenses for marijuana establishments in the Village in the absence of Village regulations, the Village has determined that prohibiting marijuana establishments at this time is in the best interest of the public health, safety, and welfare.

Section 2. Prohibition on Marijuana Establishments.

1. Pursuant to Section 6 of the 2018 Marijuana Act, the Village prohibits marijuana establishments within its boundaries.
2. The Village may repeal this Ordinance in the future and adopt an ordinance that authorizes, limits, and/or regulates marijuana establishments in a manner consistent with the 2018 Marijuana Act and all applicable administrative rules. Unless and until this Ordinance is repealed, this Ordinance shall remain in full force and effect.

Section 3. Scope.

Nothing in this Ordinance shall be construed to prohibit activities that are permitted under the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.*

Section 4. Validity and Severability.

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 5. Repealer Clause.

Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon publication.

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VILLAGE OF MULLIKEN

CHAPTER 1

**RESOLUTION TO ADOPT ORDINANCE NO. CHAPTER 1
ORDINANCE PROHIBITING MARIJUANA ESTABLISHMENTS
UNDER INITIATED LAW 1 OF 2018, THE MICHIGAN REGULATION AND
TAXATION OF MARIJUANA ACT**

At the meeting of the Township Board of the Village of Mulliken, Eaton County, State of Michigan, on the 9th day of September, 2019, at 7:30 p.m.

PRESENT: President; Dennis Kepitis, Clerk; Cheryl Goodrich, Treasurer; Kelli Waldo, Trustees; Sherry Kempf, Susie Debler, Pam Jenkins, Tyshon Mesick
ABSENT: Diane Humphrey

The following resolution was offered by Sherry Kempf and supported by Susie Debler.

WHEREAS, Public Act 246 of 1945, MCL 41.181 *et seq.*, as amended, authorizes a township board to adopt and amend ordinances that regulate the public health, safety and general welfare of persons and property and to codify such ordinances; and

WHEREAS, on November 6, 2018, Michigan voters approved Initiated Law 1 of 2018, known as the Michigan Regulation and Taxation of Marijuana Act (“2018 Marijuana Act”); and

WHEREAS, among other things, the 2018 Marijuana Act makes marijuana legal under state and local law for adults 21 years of age or older, makes industrial hemp legal under state and local law, and controls the commercial production and distribution of marijuana under a system that licenses, regulates, and taxes the businesses involved; and

WHEREAS, Section 6 of the 2018 Marijuana Act authorizes a municipality to completely prohibit or limit the number of marijuana establishments within its boundaries. A “marijuana establishment” under the 2018 Marijuana Act means a marijuana grower, marijuana safety compliance facility, marijuana processor, marijuana microbusiness, marijuana retailer,

marijuana secure transporter, or any other type of marijuana-related business licensed by the Michigan Department of Licensing and Regulatory Affairs; and

WHEREAS, the State of Michigan's Marijuana Regulatory Agency ("MRA") anticipates releasing emergency rules for the regulation of adult-use marijuana on or about June 1, 2019; and

WHEREAS, ninety days after issuance of the emergency rules, the MRA may begin accepting applications for marijuana establishments; and

WHEREAS, the Village is continuing to evaluate the potential benefits, challenges, and costs of permitting marijuana establishments within its boundaries, and wishes to review the emergency rules as part of that process; and

WHEREAS, to allow sufficient time for such review and evaluation, and to ensure that the MRA does not issue licenses for marijuana establishments in the Village in the absence of Village regulations, the Village has determined that prohibiting marijuana establishments at this time is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Pursuant to the authority granted to the Village by Public Act 246 of 1945, MCL 41.181 *et seq.*, as amended, and the Michigan Regulation and Taxation of Marijuana Act, and any other applicable statutory authority, the Board hereby adopts Ordinance No.01-19, An Ordinance Prohibiting Marijuana Establishments Under Initiated Law 1 of 2018, the Michigan Regulation and Taxation of Marijuana Act (the "Ordinance," attached as Exhibit A).

2. The Township Clerk, in accordance with MCL 41.184, shall publish either a true copy or a summary of the Ordinance once in a newspaper of general circulation in the Village within 30 days after adoption.

3. Any and all resolutions or parts of resolutions inconsistent with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

A roll call vote on the foregoing resolution was taken and was as follows:

AYES: Sharon Kempf, Trustee

Pam Jenkins, Trustee

Tyshon Mesick, Trustee

0 NAYS:

RESOLUTION DECLARED ADOPTED

CERTIFICATION

I, Cheryl Goodrich, Village of Mulliken Clerk, hereby certify that the foregoing is a true and complete copy of the Resolution adopted by the Village Board at a meeting on September 9, 2019.



Cheryl Goodrich
Village of Mulliken Clerk

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VILLAGE OF MULLIKEN

CHAPTER 2

Outdoor Burning

SECTION 1: PURPOSE

1.00 Purpose.

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Village of Mulliken by regulating the air pollution and fire hazards of outdoor burning.

SECTION 2: APPLICABILITY

2.00 Applicability.

This ordinance applies to all outdoor burning within the Village of Mulliken.

- 2.1. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- 2.2. This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- 2.3. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION 3: SEVERABILITY

3.00 Severability.

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

SECTION 4: DEFINITIONS

4.00 Definitions.

- 4.1. "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
- 4.2. "Clean wood" means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
- 4.3. "Construction and demolition waste" means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
- 4.4. "Fire Chief" means the Chief of the Roxand Township Fire Department or other person designated by the Fire Chief
- 4.5. "Municipality" means a county, township, city, or village.
- 4.6. "Open burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.
- 4.7. "Outdoor burning" means open burning or burning in an outdoor wood furnace or patio wood-burning unit.
- 4.8. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

SECTION 5: GENERAL PROHIBITION ON OPEN BURNING

5.00 General prohibition on open burning.

Open burning is prohibited in the Village of Mulliken unless the burning is specifically permitted by this ordinance.

SECTION 6: OPEN BURNING OF REFUSE

6.00 Open burning of refuse.

- 6.1. Open burning of refuse from a commercial or industrial establishment is prohibited.
- 6.2. Open burning of refuse from and at a one or two family dwelling is allowed if all of the following conditions are met:
 - 6.2.1. The burning does not create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of surrounding property.
 - 6.2.2. The burning is conducted in a container constructed of metal or masonry that has a metal covering device that does not have an opening larger than $\frac{3}{4}$ inch.
 - 6.2.3. The material being burned is not prohibited under subsection 6.3.
 - 6.2.4. A permit issued in accordance with section 13 of this ordinance has been obtained.
- 6.3. Open burning of the following materials is prohibited.
 - 6.3.1. Construction and demolition waste.
 - 6.3.2. Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.
 - 6.3.3. Furniture and appliances.
 - 6.3.4. Tires.
 - 6.3.5. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 - 6.3.6. Newspaper.
 - 6.3.7. Corrugated cardboard, container board, office paper.
 - 6.3.8. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
 - 6.3.9. Open burning of trees, logs, brush, stumps, leaves, and grass clippings

SECTION 7: BURNING PERMITS

7.00 Burning Permits.

- 7.1. No person shall start or maintain any open burning covered under this section without a burning permit issued by the Fire Chief.
- 7.2. Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a one-time burning permit before starting the fire. No fee will be required for a burning permit.
- 7.3. A campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.
- 7.4. When weather conditions warrant, the Fire Chief may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open burning.
- 7.5. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.
- 7.6. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

SECTION 8: LIABILITY

8.00 Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

SECTION 9: RIGHT OF ENTRY AND INSPECTION

9.00 Right of entry and inspection.

The Fire Chief or any authorized officer, agent, employee or representative of the Village of Mulliken who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

SECTION 10: ENFORCEMENT AND PENALTIES

10.00 Enforcement and penalties.

10.1. The Fire Chief and Village President are authorized to enforce the provisions of this ordinance.

10s.2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine of not less than Twenty Five Dollars and not more than Five Hundred Dollars for each infraction.

10.00 Enforcement and penalties.

10.1. The Fire Chief and Village President are authorized to enforce the provisions of this ordinance.

10s.2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine of not less than Twenty Five Dollars and not more than Five Hundred Dollars for each infraction.

Cheryl Goodrich
Dennis Kepitis

Adopted November 4th, 2019: 5 yeas 0 nays

Signed above Dennis Kepitis, President

Cheryl Goodrich, Clerk

VILLAGE OF MULLIKEN
CHAPTER 3
PUBLIC NUISANCE ORDINANCE

AN ORDINANCE TO PROVIDE FOR THE REGULATION AND CONTROL OF THE STORAGE, ACCUMULATION AND DISPOSITION OF JUNK, TRASH, RUBBISH, ABANDONED VEHICLES, WRECKED, DISMANTLED OR JUNK MOTOR VEHICLES, UNUSED MOTOR VEHICLES, BUILDING MATERIALS AND GRASS TALLER THAN SIX (6) INCHES; TO PROVIDE FOR PENALTIES OF THE VIOLATION HEREOF, AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

The Village of Mulliken, Eaton County, Michigan ordains:

Section 1 – Intent of Ordinance.

This Ordinance is intended to promote the public health, safety and general welfare; to provide penalties for maintaining public nuisances; to provide for the abatement of public nuisances by the Village, and the collection of costs thereof.

Section 2 – Public Nuisance Defined and Prohibited.

Public nuisance shall include, but not be limited to whatever is forbidden by any provision of the Ordinance. No person shall commit, create or maintain any public nuisance.

Section 3 – Nuisances Per Se.

It shall be unlawful, punishable and subject to the remedies provided herein, for any person, corporation, partnership, combination or association of persons to engage in conduct (including acts of both commission and omission), to act or maintain, create or accumulate the conditions prohibited herein. Except in areas zoned for and subject to the regulations pertaining to the activities described herein, no person within the Village of Mulliken shall:

- A. Store, maintain, or permit to remain outside of a completely enclosed building on any property owned or occupied by him, or throw, place, leave or permit the throwing, placing or leaving on the premises of another, any refuse, trash, junk, disabled motor vehicle or unused vehicle.

“Disabled motor vehicle” shall mean:

- 1) Any motor vehicle or other conveyance which is wrecked, inoperable, partially dismantled, junked, or abandoned, and any parts thereof which:
 - (a) Constitutes an unsightly condition tending to reduce the value of private property, or;
 - (b) Is used for storage of materials or invites plundering, or;
 - (c) Creates a fire hazard, or;
 - (d) Constitutes an attractive nuisance as being a hazard to the health and safety of children, or;
 - (e) Tends to be a refuge or collector of water for disease spreading insects or vermin, or;
 - (f) Promotes and contributes to blight and deterioration.

“Unused vehicle” shall mean:

- 1) Any motor vehicle or other conveyance which lacks a current license plate or registration required for use, and
- 2) More than one vehicle located outdoors for more than fourteen (14) days on vacant property or on property with a residential or commercial structure which is not moved under its own mechanical power.

“Junk” as used herein shall include, but not be limited to, dismantled motor vehicles, parts of machinery or motor vehicles, unlicensed or inoperable trailers, unused stoves, refrigerators, water heaters, or other appliances, scrap metal, scrap building materials, garbage, trash or other cast-off material, organic refuse, food wastes, ashes, dead animals, fish, animal bones, hides, rotten soap, grease, tallow, offal, shells, food containers or wrappings, cans, crates, rags, discarded clothing, newspapers or magazines, excrement, rot, construction debris (including but not limited to, lumber, bricks, block, plumbing or heating materials, concrete, cement, electrical materials, or siding), rubbish, industrial waste, unclean or noxious fluids or gases.

- B. Leave or keep in an area open and accessible to the public or children any abandoned, unattended, unused or discarded icebox, refrigerator, or any airtight container of any kind which has a snap latch or other locking device on the doors of such icebox, refrigerator or other such airtight container.
- C. Maintain, keep or permit a vacant, abandoned or unsafe building or structure on premises within the Village unless such building is locked and secured so as to prevent entrance by unauthorized persons and children.
- D. Keep or maintain a blighted structure. The term “blighted structure” as used herein shall include, without limitation, any dwelling, garage, factory, shop, store, building,

warehouse or any other structure or portion thereof which, after a period of not less than thirty (30) consecutive days, meets at least one of the following categories:

- a. Is vacant and open to entry
- b. Is fire damaged to an extent which prohibits safe occupancy
- c. Is open to trespass
- d. Is the site of loitering or vagrancy
- e. Has criminal activity in the vicinity
- f. Demonstrates a lack of property maintenance and upkeep as evidenced by one of more violations of the Village ordinances
- g. Is under notice for being in violation of Village ordinances
- h. Is boarded for at least thirty (30) days
- i. Has utilities disconnected or not in use
- j. Is under condemnation notice or legal order to vacate
- k. Is structurally unsound
- l. Is a potential hazard or danger to persons
- m. Keep or maintain grass/weeds taller than six (6) inches

Section 4 – Penalties; Appearance Tickets.

Any person found to be in violation of this Ordinance wherein the condition has existed for more than thirty (30) days shall be deemed responsible for a civil infraction and fined in an amount not to exceed Five Hundred and no/100 Dollars (\$500.00), plus such costs as the Court may deem appropriate. In all enforcement actions for violation of this Ordinance, citations, appearance tickets and/or Notice of Violation may be used whenever appropriate.

Section 5 – Civil Penalties.

In addition to the remedies provided herein, any violation of this Ordinance will be deemed a nuisance per se, and the Village council, its officers, agents or designees may take such action in any Court of competent jurisdiction to cause the abatement and cessation of such nuisances, including injunctive relief.

Section 6 – Abatement; Costs; Administrative Fee; Authority of Officers.

In addition to the remedies provided herein, the Village President or Clerk, or the duly authorized representatives of such officials, may take appropriate acts authorized by law to abate all nuisance conditions which violate this Ordinance. If the nuisance condition exists

upon Village property or upon the property of another municipal corporation within the boundaries of the Village, the nuisance may be abated without notice.

Whenever a nuisance condition described above shall exist on private premises within the Village, the Village President or his agent shall give Notice to Abate, in writing, by first class mail addressed to the owner reflected on the present Village tax roll and/or occupant of the property where the nuisance exists, or the person(s) otherwise responsible to remedy the nuisance, to remove the nuisance condition within thirty (30) days of the mailing of the notice. The Notice to Abate shall further state that if the nuisance condition is not abated the nuisance or designee and the cost thereof charged to the property owner. Actions by the Village to abate the nuisance condition shall not excuse or relieve any person from maintaining the property free from nuisance conditions.

The cost of abatement, and any authorized administrative fee and administrative charges as established by resolution of the Village Council, shall be billed to the property owner. Such billing shall be a personal debt of the owner to the Village which if unpaid after sixty (60) days from the date of service of the original billing may be paid from the Village General Fund and assessed as a lien against the property, including interest thereon, and enforced in the manner prescribed by the general laws of the State providing for the enforcements of tax liens.

Section 7 – Severability.

If any section, paragraph, clause, phrase of part of this Ordinance is for any reason held invalid by any Court of competent jurisdiction or by any agency, department or commission empowered by State laws for such purposes, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances not affected thereby.

Section 8 – Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced. This Ordinance shall not be construed to affect any prosecution pending or initiated after the effective date hereof to any offense committed before that effective date.

Section 9 – Effective Date

This Ordinance shall become effective with thirty (30) days from and after its adoption and publication and recording as required by law.

Village of Mulliken

Chapter 4

Zoning Ordinance

PREAMBLE:

An ordinance enacted by the Village of Mulliken under Act 207, Public Acts of 1921, as amended, governing all lands within the incorporated boundaries of the Village of Mulliken; to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated; to provide for the location, the size and the types of uses that may be made of the minimum open spaces; to provide for sanitary, safety, light and other protective measures; to provide for the maximum number of families that may be housed in dwellings, buildings and structures; to provide for the administration and amendment of said ordinance; to provide for appeals and for the organization and procedures to be followed by the Board of Zoning Appeals; and to provide for penalties for the violation of said ordinance.

SECTION 1 – SHORT TITLE:

This ordinance shall be known and may be cited as the Village of Mulliken Zoning Ordinance.

SECTION 2 – INTENT AND PURPOSE

Section 2.01 - Intent:

It is the purpose of this Zoning Ordinance to promote the public health, safety, morals, comfort, convenience and general welfare of the inhabitants of the Village of Mulliken by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes; to enhance social and economic stability; to prevent excessive concentration of population; to reduce hazards due to flooding; to conserve and stabilize the value of property; to provide adequate open space for light and air; to prevent fire and facilitate of fighting of fires; to allow for a variety of residential housing types and commercial and industrial land uses; to lessen congestion on the public streets and highways; to facilitate adequate and economical provision of transportation, sewerage and drainage, water supply and distribution, and educational and recreational facilities: assuring adequate provisions for food, natural resources, housing and commerce, insuring appropriate locations and relationships for uses of land; and facilitating the expenditure of funds for adequate public facilities and services and the expenditure of funds for other public facilities and services, by establishing herein standards for physical development, and to promote for the administration and enforcement of such standards.

SECTION 3 – DEFINITIONS:

Section 3.01 - Construction of Language:

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- 1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- 2) The word “person” includes a corporation, association, partnership, trust, firm or similar activity as well as an individual.
- 3) The word “building” includes the word “structure”.
- 4) The word “lot” includes the word “plot”, “tract”, “building site” or “parcel”.
- 5) The term “shall” is always mandatory and not discretionary; the word “may” is permissive.
- 6) The word “used” or “occupied” as applied to any land or building, shall be construed to include the words intended, arranged or designed to be used or occupied.
- 7) Any word or term not interpreted or defined by this Section shall be used with a meaning of common or standard utilization.
- 8) In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.

Section 3.02 - Definitions:

- 1) **Accessory Buildings:** A building or structure customarily incidental and subordinate to the principal building. Not to be used for human habitation.
- 2) **Accessory Use:** A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.
- 3) **Agriculture:** Any land used for pasturage, floriculture, dairying, horticulture, forestry and livestock or poultry husbandry.
- 4) **Agricultural Buildings:** A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products and that is clearly incidental to agricultural activity, excluding the business of retail trade.
- 5) **Alley:** A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.
- 6) **Alteration:** Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to herein as “altered” or “reconstructed”.
- 7) **Apartment:** A room or suite of rooms, including bath and kitchen facilities, in a two-family or multi-family dwelling intended and designed for use as a residence by a single family.

- 8) Apartment House: (See Dwelling, Multiple-Family)
- 9) Automobile Repair Garage: A premises where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; painting and under-coating of automobiles.
- 10) Basement: That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story.
- 11) Berm: A man-made, formed, earth mound of definite height and width used for the purpose of obscuring the view between adjacent parcels; the intent of which is to provide a transition between uses of differing intensity.
- 12) Buffer Yard: A 10-foot strip of land, including interlocking trees, foliage or other appropriate ground cover to a height of six (6) feet which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them. The maintenance of the area shall be continuing obligation of the owner of said area.
- 13) Building: Any structure having a roof supported by columns or walls, for the shelter, support, enclosure of persons, animals or property.
- 14) Building Height: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.
- 15) Building Lines: A line defining the minimum front, side and rear yard requirements outside of which no building or structure may be located.
- 16) Building, Principal: A building in which is conducted the main or principal use of the lot on which it is located.
- 17) Building Site: A lot or condominium unit designed for construction of a principal building or a series of principal buildings plus accessory buildings. All building sites shall have access to public or private roads.
- 18) Carport: A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.
- 19) Cellar: A portion of a dwelling having more than one-half (1/2) of its height below the average finished grade of the adjoining ground.
- 20) Change of Use: A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance or in the Uniform Construction Code, as amended.

- 21) Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organization to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.
- 22) Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members and not the general public.
- 23) Common Elements: The portions of a condominium project other than the condominium units.
- 24) Condominium Act: Act 59 of the Public Acts of 1978, as amended (MCLA 559.101 et seq.)
- 25) Condominium Documents: The master deed, recorded pursuant to the Condominium Act, and any other instruments referred to in the master deed or by-laws which affects the rights and obligations of a co-owner in the condominium.
- 26) Condominium Project: A plan or project consisting of lot less than two (2) condominium units established in conformity with the Condominium Act.
- 27) Condominium Subdivision Plan: The drawings and information prepared in conformity with the requirements of Section 66 of the Condominium Act and, in addition, containing a utility plan showing all sanitary sewer, water and storm sewer lines and easements granted to the Village for installation, repair, and maintenance of all utilities; a street construction, paving, and maintenance plan for all private streets within the proposed condominium subdivision and a storm drainage and storm water management plan, including all lines, swales, drains, basins, retention ponds and other facilities.
- 28) Condominium Use: That portion of the Condominium Project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the Michigan Department of Commerce.
- 29) Convertible Condominium Project: A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created in accordance with the Condominium Act.
- 30) Coverage: That percent of the plot of lot covered by the building area.
- 31) Customary Agricultural Operation: A condition or activity which occurs on a parcel of land in connection with the commercial production of farm products and includes but is not limited to noise, odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, insecticides and herbicides and the employment of labor when such conditions or activities are conducted in a usually or generally accepted manner. (See Farm.)

- 32) Density: The number of dwelling units situated on or to be developed on a net acre of land.
- 33) District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.
- 34) Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes.
- 35) Dwelling, Single-Family: A detached building or portion thereof designed and used exclusively as the home, residence or sleeping place of one family. In the case of a mixed occupancy where a building is occupied as part of a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Garage space, whether in an attached or detached garage shall not be considered as part of a dwelling for meeting area requirements. A dwelling shall comply with the following standards:
- A) The dwelling shall meet the minimum square footage requirements for the district in which it is located.
 - B) The minimum width across any front, side or rear elevation shall be at least twenty-four (24) continuous feet of exterior wall. This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least twenty-four (24) feet.
 - C) The dwelling shall comply in all respects with the State Construction Code, except that where a dwelling is required by law to comply with any other federal or state standards, such other standards shall apply.
 - D) The dwelling shall be placed upon and secured to a permanent foundation in accordance with the State Construction Code. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and types as required in the State Construction Code for single-family dwellings.
 - E) If the dwelling has wheels, towing mechanisms or undercarriages they shall be removed.
 - F) The dwelling shall be connected to a public sewer and water supply or to private facilities approved by the local health department.
 - G) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
 - H) The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills and roof drainage

systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Village Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located outside of mobile home developments within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than twenty (20%) percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside mobile home developments throughout the Village. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

- I) The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
 - J) The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
 - K) The foregoing standards shall not apply to a mobile home located in a licensed mobile home development except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Village pertaining to such parks.
- 36) Dwelling, Two-Family Duplex: A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in the above definition of "Dwelling, Single-Family", except that specified storage space and entrances shall be provided for each dwelling unit.

- 37) Dwelling, Multiple-Family: A building containing three (3) or more dwelling units designed for residential use for three or more families living independently of each other.
- 38) Dwelling, Row House or Town House: Three (3) or more one-family dwelling units, each having access on the first floor to the ground and with common walls separating the dwelling units.
- 39) Dwelling Unit: One or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.
- 40) Driveway: A private path of travel over which an automobile may be driven which provides access to a public thoroughfare.
- 41) Earth Sheltered Home: A dwelling which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.
- 42) Easement, Permanent Recorded: A grant of one or more property rights from a property owner to another person which is permanent and appurtenant to the land is recorded in the office of the Eaton County Register of Deeds.
- 43) Essential Cropland: Land having soil quality and slopes which are well suited for agricultural crops when treated and managed in accordance with modern agricultural practices.
- 44) Erected: The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill drainage, and the like, shall be considered a part of erection.
- 45) Essential Service: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience or welfare, but not including office buildings, substations or structures which are enclosures or shelters for service equipment, or maintenance depots.
- 46) Excavation: Any breaking of ground, except common household gardening, general farming and ground care.
- 47) Expandable Condominium Project: A condominium project to which additional land may be added in accordance with the Condominium Act.
- 48) Family: An individual, or two or more persons related by blood, marriage or adoption, or parents along with their direct lineal descendants, and adopted or foster children (including domestic employees) or a group not to exceed four (4) persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit with single cooking facilities. Said definition shall not apply in

instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

- 49) Farm: Any parcel of land containing at least five (5) acres which is used for gain in raising of agricultural crops such as grains and under special conditions, livestock. It includes the necessary storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.
- 50) Fence: An artificially constructed barrier of wood, metal, stone or any manufactured material erected for the enclosure of yard areas.
- 51) Filling: The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.
- 52) Floor area: The sum of the gross horizontal areas of the floor of a building or dwelling unit, measured from the interior faces of exterior walls, or from the centerline of walls separating dwelling units.
- 53) Floodplain or Flooding: Normally dry land areas which temporarily experience partial or complete inundation from:
 - A) the overflow of inland waters onto land adjoining the channel of a river stream, water course, lake or other body of water; or
 - B) The unusual and rapid accumulation or runoff of surface water.
- 54) Footing: That portion of the foundation of a structure which spreads and transmits loads directly to the soil or the pilings.
- 55) Frontage: The total continuous length of the front lot line.
- 56) Garage, Parking: A structure or series of structures for the temporary storage or parking of motor vehicles, having no public shop or service connected therewith.
- 57) Garage, Private: An accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles, boats, house trailers, snowmobiles, and similar vehicles owned and used by the occupants of the building to which it is necessary.
- 58) Gasoline Service Station: Any area of land, including any structure or structures thereon, that is used or designed for the supply of gasoline or oil or other fuel for the propulsion of vehicles. For the purpose of this Ordinance, this term shall also mean any area of structure used or designed for polishing, greasing, washing, dry cleaning, spraying (but not including painting) or otherwise cleaning or servicing such motor vehicles.
- 59) General Common Elements: The common elements other than the limited common elements.
- 60) Grade: The elevation(s) of the finished surface of ground after the development, filling or excavation of a parcel of land. For the purpose of controlling the number of stories and the height of any structure, the grade shall be determined by the level of ground adjacent to the walls of that structure if the grade is uniform. If the grade is not uniform, the grade shall be determined by averaging the elevation of the ground for each face of the structure as determined in the State Construction Code.

- 61) Habitable Space: Space in a dwelling unit, or structure, used for living, sleeping, eating, cooking or otherwise conducting activities directly related to the structure's principal use, which is equipped with means of egress, light and ventilation facilities in accordance with applicable construction codes. Bathroom, toilet compartments, halls and closets are not considered to be habitable space.
- 62) Inoperable or Abandoned Motor Vehicles: Any wheeled vehicle which is self-propelled and intended to be self-propelled, and which by reason of dismantling, disrepair or other causes is incapable of being propelled under its own power.
- 63) Junk: For the purpose of the Ordinance the term "junk" shall mean any motor vehicles, machinery, appliances, products or merchandise with parts missing or scrap metals or other scrap materials that are damaged or deteriorated.
- 64) Junkyard: Any land or building used for abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running conditions, machinery or parts thereof.
- 65) Kennel, Commercial: Any lot or premises used for the commercial sale, boarding or treatment of dogs, cats or other domestic pets.
- 66) Limited Common Elements: A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
- 67) Loading Space: An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
- 68) Lot: Land occupied or to be occupied by a building, structure, land use or group of buildings together with such open spaces or yards as are required under this ordinance and having its principal frontage upon a public thoroughfare.
- 69) Lot Area: The total horizontal area within the lot lines of a lot.
- 70) Lot, Corner: A lot which has at least two contiguous sides abutting upon a public street for their full length.
- 71) Lot, Depth of: The average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.
- 72) Lot, Interior: A lot other than a corner lot.
- 73) Lot Line(s): Any of the lines bounding a lot as defined herein (See illustration A)
- A) Front Lot Line: In the case of an interior lot, it is that line separating said lot from the public street right-of-way. In the case of a corner lot, the shorter street line shall be considered the front lot line, except in the case of both street lines being equal, the choice may be made at the discretion of the property owner. Once declared and so indicated on the building permit application, the designated front lot line shall remain as such.
 - B) Rear Lot Line: The lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary

line parallel to the front lot line not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.

- C) Side Lot Line: Any lot line other than the front lot line or 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.
- 74) Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the Office of the Eaton County Register of Deeds, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the Office of the Eaton County Register of Deeds, prior to the adoption of this Ordinance.
- 75) Lot, Through: A double frontage lot, not a corner lot, having a street for both front and rear lot lines.
- 76) Major Thoroughfare: A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function being the provision of access to abutting property and which has been classified as Eaton County Primary, State Trunk Line or U.S. Trunk Line.
- 77) Master Deed: The condominium document recording the condominium project including the by-laws for the project and the condominium subdivision plan as more specifically defined in Section 8 of the Condominium Act. No Master Deed shall be recorded until the condominium project has undergone site plan review and approval pursuant to Section 18 of this Ordinance. All provisions of the condominium subdivision plan which are approved in the site plan review process shall be incorporated in the Master Deed.
- 78) Minor or Local Street: A public way, the principal use of function of which is to provide access to abutting lands.
- 79) Municipal Water Supply: A water supply system owned by the Village, township, charter township, city county, the State of Michigan or an authority of commission comprised of these governmental units.
- 80) Mobile Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.
- 81) Mobile Home Park: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.
- 82) Modular (Pre-Manufactured) Housing Unit: A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a

- permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.
- 83) Motel: A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units, designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" shall include buildings designated as "auto courts", "tourist courts", "motor courts", "motor hotel" and similar appellations which are designed as integrated units of individual rooms under common ownership.
- 84) Nonconforming Building (Nonconforming Structure): A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of the Ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located.
- 85) Nonconforming Use: A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated.
- 86) Nuisance: An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated 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:
- A) Noise;
 - B) Dust;
 - C) Smoke;
 - D) Odor;
 - E) Glare;
 - F) Fumes;
 - G) Flashes;
 - H) Vibration;
 - I) Objectionable effluent;
 - J) Noise of a congregation of people, particularly at night;
 - K) Passing traffic; or
 - L) Invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.
- 87) Nuisance, Attractive: A use, practice, structure or condition that meets the criteria as contained in the "Classic Statement of the Doctrine of Attractive Nuisance" (2 Restatement of Torts, 2d p 167; 76 Mich. App. 137-June 1977)
- 88) Nursery School (Day-Care Center): A public or private school, kindergarten or child care facility wherein day-care, or day-care and education is provided for five (5) or more minors.

- 89) Nursing Home: An installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury or an infirmity.
- 90) Open Space, Required: The yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied and unobstructed by any structure or any part thereof, except as otherwise provided in this Ordinance.
- 91) Open Space, Common: Open space which is held for the collective use and enjoyment of the owners, tenants or occupants of a single development.
- 92) Owner: The owner of the premises or less estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association or corporation directly or indirectly in control of a building, structure or real property, or his or her duly authorized agent.
- 93) Parcel: A tract or continuous area or acreage of land which is occupied or intended to be occupied by a principal building or series of principal buildings, accessory building(s), condominium unit(s), or by any other use or activity permitted thereon and including open spaces and setbacks required under this ordinance, and having its frontage on a public or private street.
- 94) Park: A parcel of land, building or structure used for recreational purposes including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas and leisure time activities.
- 95) Parking Space: An area of not less than twenty (20) feet in length or ten (10) feet in width, exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for parking of permitted vehicles.
- 96) Planned Unit Development: A tract of land developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses.
- 97) Planning Commission: The Planning Commission of the Village of Mulliken.
- 98) Principal Use: The main use to which the premises are devoted and the principal use for which the premises exist.
- 99) Private Sanitary Sewage Disposal System: An individual on-site sewage disposal system as defined in the Eaton County Health Department Sanitary Code.
- 100) Private Water Supply: A well or other water supply system approved by the Eaton County Health Department pursuant to Part 127 of Act 368 of the Public Acts of 1978, as amended.
- 101) Prohibited Use: A use of land which is not permitted within a particular land development district.

- 102) Public Sanitary Sewer: A system of pipe owned and maintained by a governmental unit used to carry human, organic and industrial waste from the point of origin to a point of discharge.
- 103) Public Water Course: A stream or creek which may or may not be serving as a drain as defined by Act 40 of Public Acts of 1956, as amended, or any body of water which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.
- 104) Public Utility: Any person, firm or corporation, municipal department, board of commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication telephone, telegraph, transportation of water.
- 105) Rehabilitation: The upgrade of an existing building or part thereof which is in dilapidated or substandard condition.
- 106) Repair: The reconstruction or renewal of any supporting member of an existing building for the purpose of maintenance.
- 107) Restoration: The reconstruction or replication of an existing building's original architectural features.
- 108) Restaurant, Fast Food: An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state, for consumption:
- A) Within the restaurant building;
 - B) Within a motor vehicle parked on the premises; or
 - C) Off the premises as carry-out orders, and whose principal method of operation includes the following characteristics; food and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- 109) Restaurant, Standard: An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes on or both of the following characteristics:
- 110) Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.
- 111) Roadside Stand: A structure which is used seasonally for display and sale of agricultural produce. The operation of a roadside stand shall not constitute a commercial use.
- 112) Screen: A structure providing enclosure, such as a fence, and a barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.
- 113) Setback: The minimum horizontal distance a building or structure or any portion thereof is required to be located from the boundaries of a lot, parcel or building site upon which the same is situated.

- 114) Setback, Front: Minimum unoccupied distance, extending the full lot width, between the principal buildings and the front lot line.
- 115) Setback, Rear: The minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot opposite the front lot line.
- 116) Setback, Side: The minimum required unoccupied distance, extending the front setback to the rear setback, between the principal and accessory buildings and the side lot line.
- 117) Shopping Center: Is a business or group of businesses which provides a variety of merchandise and/or services which requires a location on a major road and a large parking area to accommodate vehicular traffic. Such a center may be a small neighborhood center, a discount store, or a mall, though this does not limit such use to be one or any of these.
- 118) Signs: Any words, lettering, parts or letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which are visible from any public way and used as an outdoor display.
- 119) Site, Net Area: The total areas within the property lines of a project or development, excluding streets.
- 120) Site Plan: A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.
- 121) Solid Waste: Garbage, rubbish, paper, cardboard, metal containers, yard clippings, wood, glass bedding, crockery, demolished building materials, ashes, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial waste, animal waste, but does not include human body waste, liquid or other waste regulated by statute, ferrous or nonferrous products and slag or slag products directed to a slag processor or to a re-user of slag or slag products.
- 122) Special Use Permit: A permit issued by the Village Council to a person or persons intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this Ordinance which possess unique characteristics and are found to be not injurious to the health, safety, convenience and general welfare of the Village inhabitants.
- 123) Stop Work Order: An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of, an activity which is in violation of this Ordinance.

- 124) Story: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it. A story thus defined, shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the height level of the adjoining ground.
- 125) Story, Half: That part of building between a pitched roof and the uppermost full story, said part having a finished floor area which does not exceed one-half (1/2) of the floor area of a full story.
- 126) Story, Height of: The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joists.
- 127) Street: A dedicated public thoroughfare which affords the principal means of access to abutting property and meets construction standards promulgated by the Eaton County Road Commission.
- 128) Street Line: The legal line of demarcation between a street right-of-way and abutting land.
- 129) Structure: Anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings and free-standing signs and not including sidewalks, drives, patios, and utility poles.
- 130) Structural Alterations: Any change in the supporting members of a building such as the bearing walls, beams or girders, or any change in the dimensions or configuration of the roof or exterior walls.
- 131) Subdivision: The division of a lot, tract, or parcel of land into five (5) or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term "subdivision" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten (10) acres.
- 132) Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether of not alteration of any wall, ceiling, floor or other dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

- 133) Swimming Pool: Any structure of container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered as an accessory building for the purposes of determining required yard spaces and maximum lot coverage.
- 134) Travel Trailer: A recreational vehicle designed to be used for temporary residence purposes and commonly know as a travel trailer or recreational vehicle.
- 135) Travel Trailer Parts: There are two basic types of travel trailer parts: Overnight and Destination.
- A) Overnight Park: Has elaborate facilities and is usually located along a near a main highway where trailers stay overnight on the way to some other destination.
- B) Destination Park: Is located at or near a scenic or historic area or near fishing, hunting, boating, skiing, or other recreational facilities and has sufficient washrooms and rest room facilities to meet demands, plus providing tot lot recreational facilities, such as swings or slides.
- 136) Use: The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.
- 137) Tower, Freestanding: Towers erected for the purpose of radio wave, television or other forms of communication which are more than fifty-five (55) feet in height above the grade oat the base of the structure.
- 138) Variance: A variance is a modification of the literal provisions of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.
- 139) Village Council: Elected members of the governing council of the Village of Mulliken.
- 140) Yards: See illustration (Exhibit A)
- A) Yard, Front: An open space extending the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.
- B) Yard, Rear: An open space extending thee full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
- C) Yard, Side: An open space between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.
- 141) Zoning Administrator: The Village President, or his authorized representative, charged with the responsibility of administering this Ordinance.

SECTION 4 – ADMINISTRATION AND ENFORCEMENT

4.01 – Administration:

The administration and enforcement of this Ordinance shall be the responsibility of the Village President and Village Council. The President and Council shall have the right to delegate said responsibility to appropriate village officers or employees. The person or persons administering and enforcing this Ordinance shall be known as the Zoning Administrator. Said Zoning Administrator shall have the power of a public officer in the enforcement of this Ordinance.

4.02 – Duties of the Zoning Administrator:

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so shall perform the following duties:

- 1) **Issue Permits:** All applications for zoning permits shall be submitted to the Zoning Administrator who may issue Zoning Permits when all applicable provisions of this Ordinance have been complied with.
- 2) **File of Applications:** The Zoning Administrator shall maintain files of all applications for Zoning Permits, and shall keep record of all permits issued; these shall be filed in the office of the Village Clerk and shall be open for public inspection.
- 3) **Inspections:** The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance. No person shall refuse to permit the Zoning Administrator to inspect any premises, at reasonable times, nor shall any person molest or resist the Zoning Administrator in the discharge of his duties.
- 4) **Record of Complaints:** The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public inspection.
- 5) **Report to the Village Council:** The Zoning Administrator shall report to the Village Council periodically at intervals not greater than monthly, summarizing for the period since the last previous report all Zoning Permits issued and all complaints of violation and any action taken on each complaint. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein.

4.03 – Permit Procedures and Regulations:

4.03.1 – Intent and Purpose: It is the intent and purpose of this Section to create a review and permit process for the administration of this Ordinance. The process shall require the issuance of one permit which shall be the Zoning Permit. Issuance of such a Permit, pursuant to Section 4.03.3, shall indicate that the plans and specifications for any particular land use that has been requested, complies with the Zoning Ordinance.

4.03.2 – Jurisdiction: The excavation for any building or structure shall not be commenced; the erection of, addition to, alteration of or moving of any building or structure shall not be undertaken; or any land shall not be used; or any existing land use changed to a different type or class; or the use of occupancy of any building or premises, or part thereof, hereafter shall not be undertaken, without the issuance of the proper and appropriate certificates and permits pursuant to the stipulations of Sections 4.03.3 and 4.03.4 of this Ordinance. Except upon written order of the Board of Appeals no such permit shall be issued for any building or use of land where the construction, addition, alteration or use thereof would be in violation of the Ordinance.

4.03.3 – General Conditions:

1) Zoning Permits: No building shall be erected, altered, moved or repaired until a Zoning Permit has been issued.

2) Expiration of Permit: Any permit granted under this Section shall become null and void after six (6) months from the date of granting such permit unless the development proposed shall have its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such voidance is effective. The permit shall be renewable upon reapplication and upon payment of the original fee, subject to the provisions of all ordinances in effect at the time of renewal.

3) Revocation: The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of the Ordinance or in the case of any false statement or misrepresentation made in the supplication. The owner or his agent shall be notified of such revocation in writing.

4) Fees: Fees for inspection and the issuance of permits or certificates required under this Ordinance shall be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by the Village Council and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.

5) Issuance: Whenever the buildings, structures and uses as set forth in any application are in conformity with the provisions of the Ordinance, the Zoning Administrator shall issue the appropriate permit. In any case where a permit is refused, the cause(s) shall be stated in writing to the applicant.

6) Non-conforming Uses: It shall not be necessary for a legal non-conformity, existing on the effective date of this Ordinance to obtain a Zoning permit in order to maintain its legal, non-conforming status. However, no non-conforming building, structure or use shall be renewed, changed or extended pursuant to Section 18 until a Zoning Permit has been issued by the Zoning Administrator. In such cases the Permit shall state specifically how the non-conforming building, structure or use differs from the provisions of the Ordinance.

4.03.4 – Zoning Permit: An application for a Zoning Permit shall be considered for approval by the Zoning Administrator when said application contains the following information:

1) In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, either a report from the Eaton County Health Department certifying in writing the approval of a private sanitary sewage disposal system, or when public sanitary sewage service are available or required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.

2) When a municipal, public or private water supply system is required by law or proposed by the applicant either a report from the Eaton County Health Department certifying approval of private water supply systems or when municipal or public water supply is required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.

3) Two (2) copies of an accurate, readable, scale drawing showing the following shall be required except in the case of minor alterations, repair and demolitions as determined by the Zoning Administrator.

a) the location, shape, area and dimension of the lot;

b) the location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered or moved on the lot;

c) the intended uses;

d) the proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users;

e) the yard, open space and parking dimensions, parking space dimensions, and number of spaces;

f) a vicinity sketch showing the location of the site in relation to the surrounding street system, and adjacent land uses within three hundred (300) feet in every direction including on the opposite side of any public thoroughfare. (Commercial and Industrial areas only); and

g) any other information deemed necessary by the Zoning Administrator to determine and provide for the enforcement of the Ordinance.

4.03.5 – Inspections: The Zoning Administrator shall inspect the site prior to the beginning of construction including the pouring of footings or excavation for a foundation.

Section 4.04 – Enforcement:

- 1) The Zoning Administrator shall enforce the provisions of this Ordinance. Violations of any provisions of this Ordinance are declared to be nuisances per se.
- 2) The Zoning Administrator shall inspect each alleged violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a Notice of Violation, in writing, which specifies all conditions found to be in violation.
- 3) Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner of party in interest at the address shown on the tax records, or may be conspicuously posted on the premises.
- 4) All violations shall be corrected within a period of thirty (30) days after the violation notice is issued. Should a violation not be corrected within this time period the Zoning Administrator shall notify the owner, or party in interest in writing, of the time and place of a hearing to be held before the Village Council on the conditions causing the notice of violation. At said hearing the person to whom the notice is addressed shall have the opportunity to show cause why said violation should not be ordered to be corrected or why said action would cause an undue hardship.
- 5) The Village Council may take testimony of the Zoning Administrator, the owner of the property and any other interested party or witness. Upon findings of said hearing the Village Council may extend the time by which the violations must be corrected for a period not to exceed six (6) months. However, the Village Council shall not allow such violations to exist longer than this period.
- 6) If the owner of part in interest fails to appear, or neglect to correct the violation within the time period specified by the Village Council, the Village Council shall prepare a report of their findings for the Village attorney recommending that action be taken. The Village Attorney may then initiate appropriate proceedings.

SECTION 5 – BOARD OF ZONING APPEALS:

Section 5.01 – Intent and Purpose:

The purpose of this Section is to insure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

Section 5.02 – Creation and Membership:

The Board of Zoning Appeals is hereby established in accordance with Act 207 of the Public Acts of 1921, as amended. The Board shall consist of the Mulliken Village Council. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office.

Section 5.03 – Organizations:

5.03.1 – Rules of Procedure: The Board of Zoning Appeals may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Board shall annually elect a chairperson, a vice-chairperson and a secretary.

5.03.2 – Meetings and Quorum: Meetings of the Board of Zoning Appeals shall be held at the call of the chairperson and at such other times as the Board in its Rules of Procedure may specify. A majority of the total membership of the Board shall comprise a quorum. All meetings shall be open to the public.

5.03.3 – Oaths and Witnesses: The chairperson may administer oaths and compel the attendance of any witness in order to insure a fair and proper hearing.

5.03.4 – Records: The minutes of all meetings shall contain the grounds for every determination made by the Board and the final ruling on each case. The Board of Zoning Appeals shall file its minutes in the office of the Village Clerk.

Section 5.04 – Jurisdiction:

The Board of Zoning Appeals shall act upon questions as they arise in the administration of this Ordinance. The Board shall perform its duties and exercise its power as provided in Act 207 of the Public Acts of 1921, as amended. The Board of Zoning Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters for which this Ordinance provides an administrative review, interpretation, variance or temporary use permit. Within this capacity the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Zoning Administrator, Planning Commission or any official administering or enforcing the provisions of this Ordinance as set forth in Section 5.05.

Section 5.05 – Authorized appeals:

The Board of Zoning Appeals shall hear the following specified categories of appeals in accordance with the following standards:

5.05.1 – Administrative Review: The Board of Zoning Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing the provisions of this Ordinance.

5.05.2 – Interpretation of the Ordinance: The Board of Zoning Appeals shall hear and decide upon request to:

- 1) interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Board of Zoning Appeals shall insure that its interpretation is consistent with the intent and purpose of the Ordinance and the Section in which the language in question is contained;
- 2) determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
- 3) classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district; and
- 4) determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in Section 8 by an analysis of the specific needs.

5.05.3 – Variance: The Board of Zoning Appeals shall have the power to authorize specific variance from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements and sign requirements of the Ordinance, provided evidence is submitted demonstrating that all of the following basic conditions and at least one of the following special conditions are met:

- 1) Basic Conditions:
 - a) That the variance will relate only to property under control of the applicant.
 - b) That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect

upon surrounding property, property values and the use and enjoyment of property in the neighborhood or district.

c) That granting the variance will not confer on the applicant and special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.

d) That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

e) That the variance shall not permit the establishment, within a district, of any use which is not permitted by right within the zoning district, or any use for which a special use permit or temporary use permit is required.

2) Special Conditions:

a) That there are practical difficulties or unnecessary hardships which prevent carrying out that strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

b) That a genuine hardship exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature. The unique circumstances or physical conditions shall not have resulted from any act of the applicant.

c) Where, absent a variance, a significant natural feature would be negatively affected or destroyed.

d) Where, absent a variance, public health, safety and welfare would be negatively affected.

3) In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of the Ordinance and shall automatically invalidate the permit.

4) Each variance granted under the provisions of this Ordinance shall become null and void unless:

- a) The construction authorized by such variance or permit has commenced within six (6) months of granting of the variance.
- b) The occupancy of land, premises or building has taken place within one (1) year after the granting of the variance.

5) No application for a variance which has been denied, wholly or in part, by the Board of Zoning Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on the ground of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

Section 5.06 – Appeal Procedures:

5.06.1 – Notice of Appeal: Appeals to the Board of Zoning Appeals may be made by any person aggrieved or be an officer or department of the Village, filing a written Notice of Appeal with Village Clerk. Upon receipt of a Notice of Appeal, the Village Clerk shall promptly transmit the records concerning the appealed action to the chairperson of the Appeals Board. Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be filed within ten (10) days after the date of the Zoning Administrator’s decision.

5.06.2 – Hearing: Upon receipt of a Notice of Appeal, the chairperson of the Board of Zoning Appeals shall fix a reasonable time and date for a Public Hearing, not to exceed thirty (30) days from the date of filing of the Notice of Appeal. Upon determination of the date and time of the Public Hearing, the Village Clerk shall notify the following, by first class mail or by personal service, not more than fifteen (15) or less than eight (8) days before the Public Hearing.

- 1) the appellant;
- 2) the Zoning Administrator;
- 3) all persons to whom real property is assessed within three hundred (300) feet of the boundary or the property in question, and to the occupants of all structures within thirty (30) feet; and
- 4) the Village President

5.06.3 – Notice of Hearing: Where the hearing, in the opinion of the Village Clerk, concerns matters of general applicability in the Village and does not concern only individual lots or parcels, such notice shall be given in a newspaper of general circulation in the Village not more than fifteen (15) or less than eight (8) days before the public hearing.

5.06.4 – Appearance: Upon the hearing, any party may appear in person or by agent or attorney. The Board may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.

5.06.5 – Stay: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Zoning Appeals, or, on application, by the Circuit Court.

5.06.6 – Fee: A fee as established by the Village Council, shall be paid to the Village Treasurer at the time the petitioner files an application with the Board. The purpose of such fee is to cover the necessary advertisements, investigations, hearing records and other expense incurred by the Board in connection with the appeal. No fee shall be charged if the Village or any official body of the Village is the moving party.

5.06.7 – Decision: The Board of Zoning Appeals shall render its decision within thirty (30) days of filing of Notice of Appeal unless an extension of time is necessary to review new information pertinent to making the decision, and is agreed upon by the appellant and a majority of members of the Appeals Board present. The vote of a majority of members of the Board shall be necessary to take action on an appeal.

5.06.8 – Bonding: In authorizing any variance, or in granting any conditional, temporary or special approval permits, the Board may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Village covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the Village Treasurer to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Board may not require the deposit of the performance guarantee before the date on which the permit is to be issued. The Board shall establish procedures under which a rebate of any cash deposits in reasonable proportions to the ratio of work completed on the required improvements will be made as work progresses.

Section 5.07 – Administrative Variance:

5.07.1 – Procedure and Criteria: The Zoning Administrator is hereby authorized to grant administrative variance to the provisions of this Ordinance in an amount not to exceed a ten (10%) percent variation from the site development standards, parking and loading requirements, advertising structure requirements and the specific provisions and requirements contained in Section 8, 9, 10, 11, 12, and 13 of this Ordinance.

Upon receipt of a request for an administrative variance, the Zoning Administrator shall prepare a report of the situation and all factual data concerning the site in terms of the criteria stated in this Ordinance. Upon completion of the report, the Zoning Administrator shall determine whether or not the request meets the above stated criteria and shall approve or deny the request exclusively on that basis. Decisions rendered by the Zoning Administrator shall be in the form of a letter which states specifically a determination on each of the items contained in Section 5.05.3 of this Ordinance, with reference to the mentioned report.

5.07.2 – Appeals: The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals pursuant to Section 5.06 of this Ordinance.

Section 5.08 – Review by Circuit Court:

Any party aggrieved by an order, determination or decision of any officer, agency, board, commission, Board of Appeals or the legislative body of the Village of Mulliken which has acted pursuant to the provisions of Act 207 of the Michigan Public Acts of 1921, as amended, may obtain a review thereof both on the facts and the law, in the Circuit Court of Eaton County, provided that all other means of local appeal and review as provided in this Ordinance have first been exhausted. The Circuit Court shall review the record and decision of the Board of Zoning Appeals to ensure that the decision:

- 1) Complies with the constitution and laws of the State;
- 2) Is based upon proper procedure;
- 3) Is supported by competent, material, and substantial evidence on the record;
and
- 4) Represents the reasonable exercise of discretion granted by the Board of Zoning Appeals

SECTION 6 – GENERAL PROVISIONS:

Section 6.01 – Intent and Purpose:

The following general provisions establish miscellaneous regulations which have not been specifically provided for in other portions of the Ordinance, yet are applicable to all zoning districts unless otherwise indicated.

Section 6.02 – Required Water Supply and Sanitary Sewerage Facilities:

Any structure for human occupancy after the effective date of this Ordinance and used for dwelling, businesses, industrial, recreational,, institutional, mercantile or storage purposes shall not be erected, altered, used or moved upon any premises unless said structure shall be provided with a potable water supply and waste water disposal system that insures a safe and effective means of collection, treatment and disposal of human, commercial, and industrial

wastes. All such installations shall comply with the requirements of the State of Michigan and the Eaton County Health Department.

Section 6.03 – Grading and Filling

In order to protect adjacent properties, public roads, public watercourse, and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities requiring permits pursuant to this Ordinance

- 1) The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flow away from the building or structure and is managed in a manner which avoids:
 - a) Increased flow onto adjacent properties or public roads;
 - b) The erosion or filling of a roadside ditch;
 - c) The blockage of a public watercourse; and
 - d) The creation of standing water over a private sewage disposal drainage field.
- 2) Filling, with earth or other materials, a parcel of land to an elevation above the established grade of adjacent developed land is prohibited without the express written approval of the Zoning Administrator.

Section 6.04 – Required Access:

After the effective date of this Ordinance, all lots shall have the required minimum lot width along and adjacent to a public thoroughfare, or the required minimum lot width in conjunction with access to a public thoroughfare provided by a right-of-way, of not less than thirty (30) feet in width. Said right-of-way shall be established by legal title or recorded permanent easement. Under this provision, no more than one (1) lot may be served by such an access route.

Section 6.05 – Moving Buildings:

No existing building or other structure within or outside of the Village shall be relocated upon any parcel or within the Village unless:

- 1) The building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site;
- 2) The building and all materials therein are in conformity with the State Construction Code; and
- 3) The building or structure can be located upon the parcel and conform with all requirements of this ordinance.

Section 6.06 – Temporary Housing Permits

Temporary buildings and structures may be placed on a lot or parcel of record and occupied only under the following conditions:

- 1) During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair or fire damage is complete, but in no case shall it be located on the lot or parcel for more than ninety (90) days.
- 2) Temporary buildings or structures incidental to construction work, except single-family residences. Said temporary buildings shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed more than six (6) months, unless expressly authorized after petition to the Board of Zoning Appeals.
- 3) Temporary building incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by relevant state agencies.
- 4) No garage, barn, accessory buildings or cellar, whether fixed or portable, shall be used or occupied as a dwelling. Travel trailers or motor home may be occupied for a period not to exceed fifteen (15) days in one (1) year.

Section 6.07 – Temporary Housing Permits:

The Village Council, upon receiving Planning Commission recommendation, may issue temporary housing permits or structures for dwelling purposes, including mobile homes, subject to the following limitations and procedures:

- 1) Emergency Housing: When a dwelling is destroyed by fire, collapse, explosion, Acts of God or public enemy to the extent that it is no longer safe for human occupancy, as determined by the Building Inspector, a Temporary Housing Permit shall be issued upon the request of the owner at the time of destruction. Said permit shall be in effect for no more than six (6) months. Any extension must be approved by the Village Council, which may grant the same for a period of not more than one (1) year.
- 2) Conditions: A Temporary Housing Permit shall not be granted, for any reason, unless the Council finds evidence that the proposed location of the temporary dwelling will not be detrimental to property in the immediate vicinity (within three hundred (300) feet), and that the proposed water supply and sanitary facilities have been approved by the County Health Department. All applicable dimensional requirements within said district shall apply to temporary dwellings.

Section 6.08 – Accessory Uses, Buildings and Structures:

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

- 1) An accessory building, including carports attached to the principal building, shall comply in all respects with the requirement of this Ordinance applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor area.
- 2) An accessory building unless attached and made structurally a part of the principal building, shall not be closer than ten (10) feet to any other structure on the lot.
- 3) No accessory building shall be closer than five (5) feet to any interior side or rear lot line.
- 4) Accessory buildings are subject to all setback requirements from the street applying to the principal building; provided, however, when topographic conditions prevent compliance with this provision, the Board of Zoning Appeals may vary the above requirements in such a manner as to contribute to the public safety and general welfare.
- 5) An accessory building shall not occupy more than twenty-five (25%) percent of the area of any rear yard plus forty (40%) percent of a now required rear yard providing that in no instance shall the accessory building exceed the ground floor area of the principal building.
- 6) No detached residential accessory building shall exceed one (1) story or twelve (12) feet in height. Detached accessory buildings for other uses may be constructed to equal the permitted maximum height of structures in said districts, subject to the Board of Zoning Appeals approval if the building exceeds one (1) story or fourteen (14) feet in height. This restriction shall not apply to agriculturally-related accessory structures or accessory structures allowed by special use permit.
- 7) Buildings accessory to principal buildings shall not be erected in the front yard.

Section 6.09 – One Building to a Lot:

No more than one principal building may be permitted on a lot or parcel, unless specifically provided for elsewhere in this Ordinance.

Section 6.10 – Permitted Yard Encroachments:

The minimum yard size and setback requirements of this Ordinance are subject to the following permitted encroachments:

- 1) Existing buildings or structures shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance with architectural elements that are necessary to the integrity of the structure of the building, or health or safety of the occupants such as cornices, eaves, gutters, chimneys, pilasters, outside stairways, fire escapes and similar features may project into a required yard area no more than five (5) feet.
- 2) Terraces, patios, porches and decks provided that they are not covered with a roof, or that the deck or paved area is no closer than ten (10) feet from any lot line or public right-of-way line.

Section 6.11 – Front Setback Reductions:

Any front setback area in any district may be reduced below the minimum requirements when the average front setback of existing principal buildings within two hundred (200) feet of a proposed principal building location area is less than the minimum required, in which case the required minimum front setback shall be based on the established average. Where the established setback is greater than the required minimum, the required setback for the proposed building shall be the average of the existing buildings.

Section 6.12 – Allocation of Lot Area:

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

Section 6.13 – Height Requirement Exceptions:

The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

- 1) Those purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental tower, flagpoles and monuments, and do not exceed fifty (50) feet in height;
- 2) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers or other structures where the manufacturing process requires a greater height but do not exceed fifty (50) feet in height;

- 3) Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above height limitations and shall have no window openings;
- 4) Public utility structures; and
- 5) Agriculture-related structures, such as barns, silos, elevators and the like that do not exceed one hundred (100) feet in height.

Section 6.14 – Fences, Walls and Screens:

The following regulations shall apply to all fences, walls, screens or similar devices:

- 1) No fence, wall or screen shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or within thirty (30) feet of the point of intersection of two (2) streets.
- 2) No fence, wall or screen shall be erected or maintained in such a way as to obstruct vision, between a height of three (3) and ten (10) feet, within thirty (30) feet of the point of intersection of a street and a driveway.
- 3) No fence, wall or screen shall exceed eight (8) feet in height.

Section 6.15 – Home Occupation:

Any use carried on by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling. Such use shall be conducted entirely within the dwelling or accessory building, as defined herein, and shall not involve any alteration of structure or change the character thereof. Home occupations shall satisfy the following additional conditions:

- 1) The non-residential use shall involve less than fifty (50%) percent of the floor area of the dwelling
- 2) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- 3) The home occupation shall not employ persons other than those members of the immediate family residing on the premises.
- 4) The majority of all activities shall be carried on indoors. No visible outdoor storage shall be permitted.
- 5) There shall be no change in the exterior appearance of the building or premises or other visible evidence of the conduct of such home occupation other than on announcement sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

- 6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- 7) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance to be changed by the occurrence of non-residential activities.
- 8) Limited retail sales may be permitted on the premises, as a part of or in conjunction with a home occupation.

SECTION 7 – ZONING DISTRICTS AND MAP:

Section 7.01 – Establishments of Districts:

For the purpose of this Ordinance, the Village is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

- 1) RA-1 – Medium Density Residential District
- 2) RA-2 – Low Density Residential District
- 3) AG – Agricultural District
- 4) B-1 – Central Business District
- 5) B-2 – General Business District
- 6) LI – Light Industrial District

Section 7.02 – Zoning District Map:

The boundaries of the respective districts enumerated in Section 7.01 are defined and established as depicted on the map entitled “OFFICIAL ZONING MAP OF THE VILLAGE OF MULLIKEN, EATON COUNTY, MICHIGAN” which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein.

This Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bearing the following: "This is to certify that this is the Official Zoning Map of the Village of Mulliken, adopted on the ____ day of _____, 19____." If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map after amendment has been approved by the Village Council together with an entry on the Official Zoning Map as follows: "On (date), by official action of the Village Council, the following change(s) were made: (brief description with reference number to Council proceedings)."

Two (2) copies of the Official Zoning Map are to be maintained and kept up-to-date, one (1) in the Village Clerk's or Treasurer's office, and one (1) in the Zoning Administrator's office.

Section 7.03 – Replacement of Official Zoning Map:

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of number of changes made thereto, the Village Council may, by Ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk and bear the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the Village of Mulliken adopted on (date), which replaces and supersedes the Official Zoning Map which was adopted on (prior date)." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

Section 7.04 – Interpretation of District Boundaries:

Where, due to the scale, lack of details or illegibility of the Official Zoning Map, there is an uncertainty, contradictions or conflict as the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, to the Board of Zoning Appeals. The Board, in arriving at a decision on such matters, shall apply the following standards:

- 1) Boundaries indicated as approximately following the streets or highway, the center lines of said street or highway shall be construed to be such boundaries.
- 2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- 3) Boundaries indicated as approximately following Village boundary lines shall be construed as following such Village boundary lines.

- 4) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
- 5) Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale down on the Official Zoning Map.
- 6) Boundaries following the shoreline of a stream, lake or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals or other bodies of water shall be construed to follow such threads.
- 7) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Zoning Appeals after recommendation from the planning Commission.

Section 7.05 – Score of Regulation:

- 1) Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the Zoning District in which such use, building or structure shall be located.
- 2) The Board of Zoning Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.
- 3) No part of a setback area, or other open space, or off street parking or loading space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, open space or off-street parking or loading space similarly required for any other use, building or structure.
- 4) No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth

herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

- 5) No portion of one (1) lot, once established and/or improved with a building or structure shall be sold unless each lot resulting from each reduction, division or sale, shall conform with all of the requirements established herein.
- 6) Accessory uses are permitted as indicated for the various Zoning Districts and if such uses are clearly incidental to the permitted principal uses.

Section 7.06 – Zoning of Vacated Areas:

Whenever any street, alley or other public way within the Village shall have been vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands shall automatically acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and shall be used for those uses as is permitted under this Ordinance for such adjoining lands.

Section 7.07 – Zoning of Filled Lands: Use of Water:

Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

Section 7.08 – Conflicting regulations:

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

Section 7.09 – Categories within Zone Districts:

In order to ensure all possible benefits and protection for the zone districts in this Ordinance, the land uses have been classified into two (2) categories:

- 1) Uses permitted by RIGHT. The primary uses and structures specified for which the zone district has been established. (Exhibit B at end)

- 2) Uses permitted by SPECIAL USE PERMIT. Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zone district, but could present potential injurious effects upon the primary uses and structures within the zone district and therefore require special consideration in relation to the welfare of adjacent property and to the community as a whole. All such proposed uses shall be subject to a public hearing following review by the Planning Commission. Refer to Section 16.

SECTION 8 – RA-1: MEDIUM DENSITY RESIDENTIAL:

It is the intent of this Section to stabilize, protect and encourage the residential character of the district and prohibit activities not compatible with a residential neighborhood.

Section 8.01 – Uses Permitted by Right:

- 1) Single-family detached dwellings;
- 2) Two-family dwellings (duplexes); and
- 3) Accessory buildings

Section 8.02 – Permitted Accessory Uses:

- 1) Swimming pools;
- 2) Automobile parking; and
- 3) Household occupations.

Section 8.03 – Uses permitted by Special Use Permit:

- 1) Conversion of large houses, pursuant to Section 17.01; and
- 2) Religious institutions such as churches, convents, parsonages; educational and social institutions such as public or private elementary and secondary schools, pursuant to Section 17.04.

Section 8.04 – Site Development Requirements:

The following minimum and maximum standards shall apply to all uses and structures in the RA-1, Medium Density Residential District except as modified by Section 6, General Provisions; Section 17, Specific Provisions for Special Uses; or as varied pursuant to Section 5, Board of Appeals.

- 1) Minimum Lot Area: No single-family building or structure shall be established on any parcel less than 6,600 square feet in size; no two-family dwelling shall be established on any parcel less than 7,500 square feet.

- 2) Minimum Frontage: Each parcel shall have continuous frontage of not less than sixty-six (66) feet along a public thoroughfare for a single-family dwelling or less than seventy-five (75) feet for a duplex.
- 3) Minimum Lot Dimensions: The minimum lot width shall not be less than sixty-six (66) feet; the minimum depth shall not be less than one hundred (100) feet.
- 4) Minimum Setback Requirements:
 - a. Front Yard: Twenty-five (25) feet.
 - b. Side Yards: Ten (10) feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required on the front yard.
 - c. Rear Yard: Thirty-five (35) feet.
- 5) Maximum Height Requirements: No residential structure shall exceed thirty-five (35) feet from the average finished grade. Accessory buildings shall not exceed twelve (12) feet in height.
- 6) Minimum Building Floor Area: Every single-family dwelling hereafter erected shall have a minimum gross living space per dwelling unit of not less than nine-hundred (900) square feet, exclusive of basements, garages, porches and breezeways. Every two-family dwelling shall have a minimum gross living space per dwelling unit of seven-hundred and fifty (750) feet.
- 7) Maximum Lot Coverage: Thirty (30%) percent

SECTION 9 – RA-2: LOW DENSITY RESIDENTIAL DISTRICT:

It is the intent of this district to provide for a diverse residential environment by allowing single-family, two family dwellings and certain multi-family dwellings which meet the requirements of this district. Provisions are also made within this district to provide for grouped housing developments such as subdivisions and apartment complexes.

Section 9.01 – Uses Permitted by Right:

- 1) Single-family detached dwellings;
- 2) Two-family dwellings (duplexes); and
- 3) Accessory buildings

Section 9.02 – Permitted Accessory Uses:

- 1) Swimming pools;
- 2) Automobile parking; and
- 3) Pens or enclosures for customary household pets; and
- 4) Household occupations.

Section 9.03 – Uses permitted by Special Use Permit:

- 1) Multiple-family dwellings, pursuant to Section 17.01;
- 2) Grouped housing, pursuant to Section 17.02;
- 3) Religious institutions such as churches, convents, parsonages; and other housing for religious personnel, education and social institutions such as public or private elementary and secondary schools, institutions for higher education, auditoriums and other places for assembly and centers for social activity, pursuant to Section 17.04; and
- 4) Public buildings and public service installations such as publicly owned and operated buildings, including libraries, telephone exchange buildings, transformer stations and substations, and other public utility buildings and structures upon compliance with the provisions of Section 17.05.

Section 9.04 – Site Development Requirements:

The following minimum and maximum standards shall apply to all uses and structures in the RA-2, Low Density Residential District except as modified by Section 6, General Provisions; Section 17, Specific Provisions for Special Uses; or as varied pursuant to Section 5, Board of Appeals.

- 1) Minimum Lot Area: No building or structure shall be established on any parcel less than 12,000 square feet in size.
- 2) Minimum Frontage: Each parcel of land shall have continuous frontage of not less than one hundred (100) feet along a public thoroughfare.
- 3) Minimum Lot Dimensions: The minimum lot width shall not be less than one-hundred (100) feet; the minimum depth shall not be less than one hundred and twenty (120) feet.
- 4) Minimum Setback Requirements:
 - a. Front Yard: Twenty-five (25) feet.
 - b. Side Yards: Ten (10) feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
 - c. Rear Yard: Thirty-five (35) feet.
- 5) Maximum Height Requirements: No residential structure shall exceed thirty-five (35) feet from the average finished grade. Residential accessory buildings shall not exceed twelve (12) feet in height.
- 6) Minimum Building Floor Area: Every single-family dwelling hereafter erected shall have a minimum gross living space per dwelling unit of not less than one thousand (1,000) square feet, exclusive of basements, garages, porches and breezeways. Every two-family dwelling shall have a minimum gross living space per dwelling unit of eight-hundred twenty-five (825) feet.

- 7) Maximum Lot Coverage: Thirty (30%) percent

SECTION 10 – AG – AGRICULTUREAL DISTRICT:

The AG – Agricultural District is intended to preserve, enhance and stabilize areas within the Village which are presently used predominantly for general farming and areas which, because of their soil characteristics and location, should be conserved for agricultural use.

Section 10.01 – Uses Permitted by Right:

In the AG – Agriculture District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided for in this Ordinance.

- 1) Agricultural or horticultural activities on parcels of land of five (5) acres or more, including general and specialized farming and related activities but not limited to:
 - a. Raising of grain, grass, seed crops;
 - b. Orchards;
 - c. Apiculture (beekeeping);
 - d. Floriculture;
 - e. Raising of tree fruits, nuts and berries;
 - f. Raising or ornamental trees, shrubs, and nursery stock;
 - g. Vegetable raising; and
 - h. Greenhouses;
- 2) Single-family detached dwellings
- 3) Accessory Buildings.

Section 10.02 – Permitted Accessory Uses:

Accessory uses or structures, clearly incidental to the operation of an existing farm, including:

- 1) Barns silos, sheds and similar structures customarily incidental to the permitted principal use;
- 2) Outdoor storage of equipment and materials limited to farm machinery, implements and related material. Storage activities shall be subject to minimum setback requirements; and
- 3) One roadside stand for the sale of farm produce, specialty crops such as tree fruits, nuts, berries and the like or foodstuff made from such produce, providing it is raised on the property.

Section 10.03 – Uses Permitted by Special Use Permit:

- 1) Public buildings and community service installations; pursuant to Section 17.05.

- 2) The raising and keeping of cattle, hogs, gorses, ponies, sheep, swine and similar livestock or small animals such as rabbits, poultry and goats; pursuant to Section 17.11.

Section 10.04 – Site Development Standards:

The following minimum and maximum standards shall apply to all uses and structures in the AG - Agricultural District except as modified by Section 6, General Provisions; Section 17, Specific Provisions for Special Uses; or as varied pursuant to Section 5, Board of Appeals.

- 1) **Minimum Lot Area:** No building or structure shall be established on any parcel less than one (1) acre in size.
- 2) **Minimum Frontage:** Each parcel of land shall have continuous frontage of not less than one-hundred sixty-five (165) feet for 1 to 2 acre parcels, two hundred twenty-five (225) feet for parcels larger than two (2) acres along a public thoroughfare.
- 3) **Yard and Setback Requirements:**
 - a. **Front Yard:** Twenty-five (25) feet.
 - b. **Side Yards:** Ten (10) feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
 - c. **Rear Yard:** Thirty-five (35) feet.
 - d. No permanent or temporary structure housing livestock or for storage of feed or manure shall be located any closer than one hundred (100) feet to a lot line.
- 4) **Maximum Lot Coverage:** Twenty-five (25%) percent.
- 5) **Maximum Height:** No non-farm structure or dwelling shall exceed a height of thirty-five (35) feet measured from the average finished grade

SECTION 11 – B-1: CENTRAL BUSINESS DISTRICT:

It is the intent of this district to provide for office buildings and the great variety of retail stores and related activities which occupy prime retail frontage in the downtown area and serves comparison, convenience and service needs of the entire municipality as well as surrounding residential and agricultural areas beyond the municipal limits. The district regulations are designed to promote convenient pedestrian shopping and stability of retail development by encouraging a contiguous retail frontage and by prohibiting automotive-related highway service, and non-retail areas which tend to break up such continuity.

Section 11.01 – Uses Permitted by Right:

- 1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building including, but not limited to, foods, drugs, liquor, furniture, clothing, dry goods, notions or hardware.

- 2) Person service establishments which perform services on the premises within a completely enclosed building such as, but not limited to, repair shops, barber and beauty shops, photographic studios and dry cleaners.
- 3) Restaurants and taverns where the patrons are served while seated within a building that is not part of a drive-in.
- 4) Theaters, when completely enclosed.
- 5) Office establishments which perform services on the premises including but not limited to, financial institutions, insurance offices, real estate offices, professional offices for accountants, doctors, lawyers, engineers and governmental offices, such as post offices, etc.
- 6) Offices and showrooms of plumbers, electricians, decorators, or similar trades in connection with which not more than twenty-five (25%) percent of the floor area of the building, or part of the building, occupied by said 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.
- 7) Hospitals or other facilities for human health care.

Section 11.02 – Permitted Accessory Uses:

- 1) Signs pursuant to Section 15; and
- 2) Automobile parking, pursuant to Section 14.

Section 11.03 – Uses Permitted by Special Use Permit:

- 1) Sexually oriented businesses, pursuant to Section 17.06.

Section 11.04 – Site Development Requirements:

The following minimum and maximum standards shall apply to all uses and structures in the B-1 – Central Business District except as modified by Section 6, General Provisions; Section 17, Specific Provisions for Special Uses; or as varied pursuant to Section 5, Board of Appeals.

- 1) Minimum Lot Area: Two thousand five hundred (2,500) feet.
- 2) Minimum Frontage: None
- 3) Minimum Lot Width: None
- 4) Yard Setback Requirement:
 - a. Front yard: None
 - b. Side yard: None
 - c. Rear yard: None
- 5) Maximum Height Requirements: Fifty (50) feet.
- 6) Performance Standards:

- a. All storage of materials shall be within the confines of the building or part thereof occupied by said establishment.
- b. Material which is normally and reasonably discarded from commercial uses of the property may be stored for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five (5) feet in height.

SECTION 12 – B-2: GENERAL BUSINESS DISTRICT:

It is the intent of this district to furnish areas for business activity generally incompatible with pedestrian movement and are located to service highway and passerby traffic.

Section 12.01 – Uses Permitted by Right:

- 1) All uses permitted in the B-1 District
- 2) New automobile sales or showroom, farm implement dealers, including accessory parking and outdoor sales areas;
- 3) Bus passenger stations;
- 4) Public utility offices, exchanges, transformer stations, pump stations and service yards;
- 5) Self-service laundry and dry cleaning establishments;
- 6) Bowling alleys;
- 7) Private club or lodge halls;
- 8) Pool or billiards halls;
- 9) Drive-in restaurants; and
- 10) Hotels, motels and motor inns.

Section 12.02 – Permitted Accessory Uses:

- 1) Signs, pursuant to Section 15; and
- 2) Automobile parking, pursuant to Section 14.

Section 12.03 – Uses permitted by Special Use Permit:

Gasoline service stations and automotive repair, pursuant to 17.08

Section 12.04 – Site Development Requirements:

The following minimum and maximum standards shall apply to all uses and structures in the B-2 – General Business District except as modified by Section 6, General Provisions; Section 17, Specific Provisions for Special Uses; or as varied pursuant to Section 5, Board of Appeals.

- 1) Minimum Lot Area: Ten thousand (10,000) square feet.
- 2) Minimum Lot Frontage: One hundred (100) feet.
- 3) Minimum Lot Width: One hundred (100) feet.

- 4) Yard Setback Requirement:
 - a. Front yard: Twenty-five (25) feet.
 - b. Side yard: Ten (10) feet.
 - c. Rear yard: Thirty-five (35) feet.
- 5) Maximum Height Requirements: Thirty-five (35) feet.
- 6) Performance Standards:
 - a. Storage of materials or goods shall be enclosed entirely within a building or shall be enclosed so as not to be visible to the public from any abutting residential district or public street.
 - b. Vehicle ingress and egress points shall not be closer than sixty (60) feet to the intersection of any two (2) public streets or closer than thirty (30) feet to an adjacent driveway.
 - c. No major repairs or refinishing shall be done on outside lots intended for display or sales areas.
 - d. No lighting shall, in any way, impair the safe movement of traffic on any street or highway.
 - e. There must be sufficient on-site storage to accommodate at least two (2) queued vehicles waiting to park or exit the site without using any portion of the public street right-of-way or in any other way interfering with street traffic.
 - f. Screening at least four (4) feet in height shall be erected to prevent headlight glare from shining onto adjacent residential property. No screening shall, in any way, impair safe vertical or horizontal sight distance for any moving vehicles or be closer than thirty (30) feet to any street right-of-way line.

SECTION 13 – LI: LIGHT INDUSTRIAL DISTRICT:

It is the intent of this district to provide for a variety of light industrial uses, processing storage and commercial establishments not engaging primarily in retail sales. Such industrial areas should be free of incompatible uses and designed so as not to harm adjacent conforming uses.

Section 13.01 – Uses Permitted by Right:

(Subject to Site Plan Review, see Section 18)

The following are uses permitted by right when conducted in a permanent fully enclosed building.

- 1) Light industrial establishments which perform assembly, fabrication, compounding, manufacture or treatment of materials, goods and products including, but not limited to:
 - a. Jobbing and machine shops;
 - b. Fabricated metal products;

- c. Plastic products, forming and molding;
 - d. Processing of machine parts;
 - e. Monument and art stone production;
 - f. Industrial laundry operations;
 - g. Wood products processing facility; and
 - h. Printing and publishing
- 2) Storage facilities for building materials, sand, gravel, stone, lumber and contractor's equipment.
 - 3) Grain and feed elevators, bulk blending plants and/or handline of liquid nitrogen fertilizer and anhydrous ammonia.
 - 4) Commercial uses not primarily involved in retail sales as a primary use including, but not limited to:
 - a. Building material suppliers, farm implement dealers and repair;
 - b. Veterinary hospitals and kennels; and
 - c. Commercial freestanding towers.
 - 5) Planned research or industrial parks.

Section 13.02 – Permitted Accessory Uses:

Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:

- 1) Incidental offices for management and materials control; and
- 2) Restaurant or cafeteria facilities for employees working on the premises.

Section 13.03 – Uses Permitted by Special Use Permit:

- 1) Mobile home parks, pursuant to Section 17.03;
- 2) Automobile salvage and private junk yards, pursuant to Section 17.09; and
- 3) Slaughter house and poultry, meat and food processing plants, pursuant to Section 17.10.

Section 13.04 – Site Development Requirements:

The following minimum and maximum standards shall apply to all uses and structures in the LI – Light Industrial District except as modified by Section 6, General Provisions; Section 17, Specific Provisions for Special Uses; or as varied pursuant to Section 5, Board of Appeals.

- 1) **Minimum Lot Area:** No building, structure or permitted use shall be established on any parcel less than two (2) acres in size.
- 2) **Minimum Frontage:** Each parcel of land shall have continuous frontage of not less than two-hundred (200) feet along a major or secondary public thoroughfare and meets all applicable county construction and design standards.

- 3) Minimum Lot Width: The minimum lot width shall not be less than two hundred (200) feet.
- 4) Yard and Setback Requirements:
 - a. Front and Rear Yard: Fifty (50) feet.
 - b. Side Yards: Fifty (50) feet, except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
 - c. Lots adjacent to Railroad R.O.W.: When industrial parcels are adjacent to railroad right-of-way, the side and rear yard requirements will be waived and setbacks can be zero (0) feet from R.O.W. line.
- 5) Maximum Lot Coverage: Fifty (50%) percent.
- 6) Maximum Height: No structure shall exceed a height of thirty-five (35) feet measured from the average finished grade.

Section 13.05 – Performance Standards:

- 1) External areas for storage shall be screened on all sides by an opaque fence of not less than six (6) feet in height.
- 2) When a side or rear lot line abuts or is adjacent to property located within the RA-1 and RA-2 residential districts, a berm or buffer yard shall be required in addition to the minimum yard requirements, specific driveways and plantings, which shall be determined through the site plan review process.
- 3) Performance standards for sound, vibration, odor, gasses, glare, heat, light, electromagnetic radiation, smoke, dust, dirt, fly ash, drifted and blown materials.
 - a. Sound: The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

Decibels (dba)	Adjacent Use	Where Measured
55	Residential Dwelling	Common Lot Line
65	Commercial	Common Lot Line
70	Industrial or other	Common Lot Line

The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectional noises due to intermittence, beat frequency or shrillness, shall be muffled so as not to become a nuisance to adjacent uses.

- b. Vibration: All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured by any lot line of its source.

- c. Odor: The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines is prohibited.
- d. Gases: The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- e. Glare and Heat: Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.
- f. Light: Exterior lighting shall be so installed that the surface of the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one (1) foot candle power of light cross a lot line five (5) feet above the ground in a residential district.
- g. Electromagnetic Radiation: Applicable rules and regulations of the Federal Communication Commission in regard to propagation of electromagnetic radiation shall be used as standards for this Ordinance.
- h. Smoke, Dust, Dirt and Fly Ash: It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than four (4) minutes in any one-half (1/2) hour which is:
 - I) As dark or darker in shade as designated as Number 2 on the Ringlemann Chart. The Ringlemann Chart, as published by the United State Bureau of Mines, which is hereby made a part of this Ordinance, shall be the standard. However, the Unbrascopes readings of smoke densities may be used when correlated with the Ringlemann Chart.
 - II) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in (1) above, except when the emission consists only of water vapor. The quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of the charring medium at a temperature of 500 degrees Fahrenheit.
- i. Drifted and Brown Material: The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.
- j. Radio Active Materials: Radio-active materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards.

- k. Other Forms of Air Pollutions: It shall be unlawful to discharge into the atmosphere any substance not covered in parts c, d and h and in excess of standards approved by the Michigan Department of Natural Resources.
- l. Liquid or Solid Wastes: It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Natural Resources.
- m. Hazardous Wastes: Hazardous wastes as defined by the Michigan Department of Natural Resources shall be disposed of by methods approved by the Michigan Department of Natural Resources.

SECTION 14 – OFF STREET PARKING AND LOADING:

Section 14.01 – Intent of Parking Ordinance:

It is the intent of this Ordinance that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premise constructed, altered or enlarged under the provisions of this Ordinance. All vehicles shall preferably be stored on the premises occupied by the principal building.

14.01.1 – Definition of Floor Area: The term “floor area” as applied to offices, merchandising or service types of uses, shall mean the gross floor is used or intended to be used for services to the public, including those areas occupied for fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing of mechanical equipment integral with the building, maintenance facilities or those areas where customers, patients, clients, salesmen and the general public are denied access. “Floor are” shall be measured from the exterior faces of exterior walls.

14.01.2 – Fractional Space: When units of measurement determining the number of required parking spaces result in fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

14.01.3 – Requirements for Use Not Mentioned: In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply.

14.01.4 – Use of Parking Areas: No commercial repair work, servicing or selling of any kind shall be conducted in any parking area. Parking space shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons. No sign shall be erected in parking areas except that no more than one directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed twenty (20) square feet in area and shall not project beyond the property line of the premises.

14.01.5 – Building Additions or Other Increases in Floor Area: Whenever a use requiring off-street parking is increased in floor area or when interior building modifications result in an increase in capacity for any premise use, additional parking shall be provided and maintained in the proper ratio to the use change increased floor area or capacity.

14.01.6 – Joint Use of Parking Area: The joint use of parking facilities by two or more uses may be granted by the Board of Appeals whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location design and construction are met.

- 1) Computing Capacities: In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If the space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
- 2) Record of Agreement: A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the Register of Deeds of Eaton County. The agreement shall include a guarantee for continued use of the parking facility by each party.

Section 14.02 – Parking Space Requirements:

The number of required off-street parking spaces in the RA-1, RA-2, B-2 and LI districts shall be provided with the following:

- 1) One and Two-Family Dwellings: Two (2) spaces for each family dwelling unit.
- 2) Multiple Dwellings: Two (2) spaces for each dwelling unit.
- 3) Boarding and Lodging Houses, Fraternities, Private Clubs: One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater.
- 4) Motels, Auto Courts, Tourist Homes: One (1) space for each sleeping unit plus two (2) spaces for operating personal.
- 5) Hotels: One (1) space for each guest room, plus one (1) additional space for every five (5) employees.

- 6) Mobile Home Park: Two (2) spaces for each mobile home site plus (1) space for every three mobile home sites.
- 7) Convalescent Homes, Convents or Similar Uses: One (1) space for each two (2) beds plus one (1) space for every three (3) employees.
- 8) Hospitals, Sanitariums: Two (2) spaces for each three (3) patient beds plus one (1) space for each staff or visiting doctor plus (1) space for each three (3) employees.
- 9) Clinics: Eight (8) spaces for each doctor plus one (1) space for each employee.
- 10) Auditoriums (incidental to schools), Churches, Stadiums, Gyms, Theaters, and Buildings of similar use with fixed seats: One (1) space for each four (4) seats plus one (1) space for every two (2) employees.
- 11) Auditoriums (other than incidental to schools), Lodge Halls, Meeting Halls, Community Centers or Buildings of similar use without fixed seats: One (1) space for every four (4) persons of legal capacity.
- 12) Elementary and Middle Schools: One (1) space for every (1) employee plus one (1) space for every four (4) person of legal capacity where the school contains an auditorium, stadium or gym.
- 13) High Schools and Colleges: One (1) space for every employee plus (1) space for each (5) students.
- 14) Libraries, Museums, Post Offices: One (1) space for every eight hundred (800) square feet of floor area plus one (1) space for every two (2) employees.
- 15) Private Golf Clubs, Swimming Pool Clubs, Tennis Clubs or Other Similar Uses: One (1) space for every two (2) member families or individuals.
- 16) Golf Courses Open to the Public, Except Miniature or "Par 3" Courses: Four (4) spaces for each hole plus one (1) space for each employee.
- 17) Stadiums and Sport Arenas: One (1) space for every four (4) seats.
- 18) Dance Halls, Pool and Billiard Rooms, Exhibition Halls Roller Rinks: One (1) space for each one hundred (100) square feet of floor area used for dancing or assembly.
- 19) Bowling Alleys: Five (5) spaces for each alley plus one (1) space for each employee.
- 20) Miniature or "Par 3" Golf Courses: Three (3) spaces for each hole plus one (1) space for each employee.
- 21) Professional Offices and Banks: One (1) space for every two hundred (200) square feet of floor area.
- 22) General Offices: One (1) space for every two hundred (200) square feet of floor area.
- 23) Clothing Furniture, Appliance, Hardware, Automobile, Machinery Sales, Shoe Repair, Personal Services (other than beauty and barber shops), Wholesales: One (1) space for every two hundred (200) square feet of floor area.

- 24) Barber Shops and Beauty Parlors: Two (2) spaces for each beauty and/or barber chair.
- 25) Supermarket, Self-Service Food Store: One (1) space for every one hundred (100) square feet of floor area.
- 26) Restaurants, Cafeteria's Taverns, Bars: One (1) space for every seventy-five (75) square feet of floor area or one (1) space for every three (3) seats, whichever is greater.
- 27) Automobile Service and Repair Garages, Gasoline Filling and Service Stations: Three (3) spaces for each repair and service stall plus one (1) space for every employee.
- 28) Drive-In Restaurants for Fast-Food Establishments: One (1) space for every fifteen (15) square feet of floor area.
- 29) Drive In Banks, Cleaners, Car Laundries and Similar Businesses: Space for five (5) cars between the sidewalk area and one (1) space for every two thousand (2,000) square feet of floor area.
- 30) Retail Stores, except as otherwise specified herein: One (1) space for every one hundred fifty (150) square feet of floor area.
- 31) Funeral Homes and Mortuaries: One (1) space for every twenty-five (25) square feet of floor area of chapels and assembly rooms.
- 32) Warehouses, Wholesale Stores: One (1) space for every eight hundred (800) square feet of floor area.
- 33) Industrial of Manufacturing Establishments, including Research and Testing Laboratories, Creameries, Bottling Works, Printing and Engraving Shops: One (1) space for every three (3) employees for industry's largest working shift or one (1) space for every four hundred (400) square feet of gross floor area, whichever is greater.
- 34) Adult Mini-Motion Picture Theater: One (1) space for every two hundred (200) square feet of floor area plus one (1) space for every viewing stall or viewing enclosure.

No off-street parking spaces shall be required in the B-1 District except that all dwelling units shall be provided with at least two (2) spaces.

Section 14.03 – Location of Parking Areas:

All off-street parking areas shall be located on the same lot or on the adjacent premises in the same district as the use they are intended to serve, with the exception of the following:

- 1) Uses in B-1, B-2 and LI Districts: Parking on the premises or within three hundred (300) feet.
- 2) Public and Quasi-Public Building, Places of Assembly, Private Clubs, Associations and Institutions: Parking on the premises or within three hundred (300) feet.

Section 14.04 – Site Development Requirements:

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements.

- 1) A minimum area of nine (9) feet by eighteen (18) feet shall be provided for each vehicle parking space; each space shall be definitely designated and reserved for parking purposes exclusive of space requirements for adequate ingress and egress.
- 2) Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.
- 3) Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided.
 - a. Except for parking space provided for single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than thirty (30) feet wide and so located as to secure the most appropriate development of the individual property.
 - b. Each entrance to and exit from an off-street parking area shall be at least twenty-five (25) feet from any adjacent lot within a residential district.
- 4) Each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern, as follows:
 - a. For right angle parking patterns seventy-five (75) to ninety (90) degrees, the maneuvering lane width shall be a minimum of twenty-four (24) feet.
 - b. For parking patterns fifty-four (54) to seventy-four (74) degrees, the maneuvering lane width shall be a minimum of fifteen (15) feet.
 - c. For parking patterns thirty (30) feet to fifty-three (53) degrees, the maneuvering lane width shall be a minimum of twelve (12) feet.
 - d. All maneuvering lane widths shall permit one-way traffic movement, except for the ninety (90) degree pattern which may provide for two-way traffic movement
- 5) Parking areas with a capacity of four (4) or more vehicles shall be surfaced with a material that shall provide a durable, smooth and dustless surface and shall be graded and provided with adequate drainage.
- 6) Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation. All lighting shall be so arranged as to reflect light away from any residential property adjacent to the parking area and any adjacent road or street.

- 7) Where a parking area with a capacity of four (4) or more vehicles adjoins a residential district, a landscaped buffer strip at least ten (10) feet wide shall be provided between the parking area and the adjoining property, or a fence, wall or berm no less than four (4) feet in height shall be erected.

14.04.1 – Reduction, Modification, Waiver: The Board of Zoning Appeals may authorize a reduction, modification or waiver of any of the off-street parking or loading regulations provided in this Section when it can be demonstrated that circumstances of extreme practical difficulty exist that would result in hardship to the applicant. Hardship shall not be deemed economic, but shall be evaluated also in terms of the use of a particular parcel of land. A hardship that is a result of any action of the applicant shall not be considered by the Board of Zoning Appeals. In no case shall the off-street parking or loading standards be reduced by more than twenty-five (25%) percent.

Section 14.05 – Loading and Unloading Space Requirements:

14.05.1 – Intent and Purpose: In order to prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use. (This requirement is waived in the B-1 District).

14.05.2 – Additional Parking Space: Loading space required under this Section shall be provided as area additional to off-street parking space as required under Section 14.02 and shall not be considered as supplying off-street parking space.

14.05.3 – Space Requirements: There shall be provided adequate space for standing, loading, and unloading service not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, open or enclosed, for uses listed in the following table, or for similar uses similarly involving the receipt of distribution by vehicles of material or merchandise:

USE	FLOOR AREA	REQUIRED SPACE
Commercial Uses, such as retail stores, personal services, amusement, automotive service	First 2,000	None
	Next 20,000 or fraction thereof	One Space
	Each additional 20,000 or fraction thereof	One Space
Hotels, Offices	First 2,000	None
	Next 50,000 or fraction thereof	One Space
	Each additional 100,000 or fraction thereof	One Space
Wholesale and storage, including building and contractor's yards	First 20,000	One Space
	Each additional 20,000 or fraction thereof	One Space
Manufacturing uses	First 20,000 or fraction thereof	One Space
	Each additional 20,000 of fraction thereof	One Space
Funeral Homes and Mortuaries	First 5,000 or fraction thereof	One Space
	Each additional 10,000 or fraction thereof	One Space
Hospitals	First 20,000	One Space
	Next 100,000 or fraction thereof	One Space
	Each additional 200,000 or fraction thereof	One Space
Schools, Churches, Club, Public Assembly Buildings	For each building 5,000 or over	One Space

14.05.4 – Access: Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street of alley.

SECTION 15 – SIGNS

Section 15.01 – Purpose

The purpose of these requirements is to provide a framework within which the identification and informational needs of all and uses can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives. It is a basic tenet of this Section that unrestricted signage does not benefit either private enterprise nor the community-at-large.

Section 15.02 – Signs in Residential Districts:

Signs in accordance with the definition set forth in Section 3 of this Ordinance shall be permitted subject to the following restrictions:

- 1) Signs no larger than ten (10) square feet in area shall be permitted for any of the following purposes:
 - a. Sale or lease of property (real or personal); or
 - b. Political advertising.
- 2) Signs advertising new subdivisions or major developments may be permitted by the Planning Commission for no more than one (1) year, provided they do not exceed twenty-five (25) square feet in area.
- 3) Public institutions and churches permitted in residential districts shall comply with regulations for commercial use.

Section 15.03 – Signs in Commercial or Industrial Districts:

Signs shall be permitted subject to the following restrictions:

- 1) Signs shall pertain exclusively to the business carried on within the building
- 2) Signs shall be placed flag against the main building or parallel to the building on a canopy and may face only the public street or parking areas as part of the development. Signs shall not project above the roof line or cornice.
- 3) Signs painted or affixed to a building shall not exceed ten (10%) percent of the surface area of the building face to which attached.
- 4) Signs may be illuminated. Flashing or moving illumination is permissible, provided the same shall not create a traffic or safety hazard. The source of illumination shall be shielded from traffic and adjacent property, and shall not be visible beyond the property line of the parcel on which the sign is located.
- 5) Fee standing signs, shall:
 - a. Not obstruct a clear view of traffic;
 - b. Not exceed twenty-five (25) feet in height;
 - c. Not exceed one per property, regardless of number of businesses;

- d. Set back at least ten (10) feet, measured from the right-of-way line to the leading edge of the sign; and
- e. Not exceed twenty-five (25) square feet in area.

Section 15.04 – Moving or Revolving Signs:

Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type or other apparent visible movement achieved by electrical, electronic or metal means, excepting those actions associated with time-temperature signs, shall be prohibited.

Section 15.05 – Signs not to Constitute a Traffic Hazard:

No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words “stop”, “look”, “danger” or any word, phrase, symbol or character in such matter as to interfere with, mislead or confuse traffic.

Section 15.06 – Portable or Movable Signs:

Any free-standing sign not permanently anchored or secured to either a building or the ground, including but not limited to “A” frame, “T” frame or inverted “T” shaped structures, including those signs mounted on wheeled trailers, shall be permitted only in accordance with the following provisions:

- 1) Portable signs are permitted for grand openings, advertising charitable or community-related events and the like. Being temporary in nature, such portable signs may be permitted for a period not to exceed ninety (90) days.
- 2) All illuminated portable signs shall comply with the requirements of Section 18.08.
- 3) All portable signs shall be located no closer than one-half (1/2) the setback distance for a permanent structure, to the street right-of-way line.
- 4) Any portable signs shall not exceed fifty (50) square feet in surface display area.
- 5) Any portable signage exceeding the above requirements shall necessitate a Special Use Permit.

Section 15.07 – Outdoor Advertising Structures:

Outdoor advertising structures and billboards other than those signs which exclusively advertise businesses on the premises on which they are located, may be permitted by Special Use Permit in all districts except RFA-1 and RA-2 in accordance with the following limitations:

- 1) Location: Outdoor advertising structures shall be located at least fifty (50) feet from the right-of-way line of the street on which it fronts.
- 2) Illumination: Outdoor advertising structures may be illuminated providing that said illumination is not visible beyond the property lines of the parcel upon which the structure is located.
- 3) Maintenance: Outdoor advertising structures shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of structure and preservation of structure with paint or other surface finishing material. If any outdoor advertising structure is not maintained, written notice of any disrepair shall be issued by the Zoning Administrator to the owner of said structure. If the disrepair is not corrected within thirty (30) days, said structure shall be removed at the owner's expense.
- 4) Size: No outdoor advertising structure shall exceed three hundred (300) square feet in surface display area.
- 5) Spacing: No outdoor advertising structure shall be located within five hundred (500) feet of any other outdoor advertising structure.

Section 15.08 – Existing Nonconforming Signs:

It is the intent of this Section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing at the effective date of adoption of this section, although such sign or outdoor advertising structure may not conform with the provision of this section. It is the intent that nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all nonconforming signs and outdoor advertising structures within the Village shall be subject to the conditions and requirements set forth herein:

- 1) Structural Changes: The faces, supports or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted or enlarged unless the resultant changed, altered, substituted or enlarged sign or outdoor advertising structure conforms to the provisions of this Section.
- 2) Repairs, Alterations and Improvements: Nothing shall prohibit the repair, reinforcement, alteration, improvement or modernizing of a lawful nonconforming sign or outdoor advertising structure, provided such repair does not exceed and aggregate cost of thirty (30%) percent of the appraised replacement cost as determined by the Building Inspector, unless the subject sign or outdoor advertising structure is changed by such repair, reinforcement, alteration, improvement or modernizing to a conforming

structure. Nothing in this Section shall prohibit the periodic change of message on any outdoor advertising structure.

- 3) Restoration of Damage: Any lawful nonconforming sign or outdoor advertising structure damaged by fire, explosion, an act of God or by other accidental causes, may be restored, rebuilt or repaired, provided that the estimated expense of reconstruction does not exceed fifty (50%) percent of the appraised replacement cost as determined by the Building Inspector.
- 4) Discontinuance or abandonment: Whenever the activity, business or usage of a premises to which a sign is attached or related has been discontinued for a period of ninety (90) days or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming sign attached or related thereto. At the end of this period of abandonment, the nonconformance sign shall either be removed or altered to conform with the provisions of this Section.
- 5) Elimination of Non-Conforming Sign: The Village Council may acquire any nonconforming sign or outdoor advertising structure, with or without acquiring the property on which such sign or structure is located, by condemnation or other means, and may remove such sign or structure.

SECTION 16 – SPECIAL USE PERMITS:

Section 16.01 – Purpose and Intent:

Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this zoning ordinance and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment and the capacities of public services and facilities affected by the land uses. In order to provide controllable and reasonable flexibility, the Section permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within certain zone districts by the issuance of a special use permit. By such a procedure, the Planning Commission and the Village Council have the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare.

Section 16.02 – Procedures:

An application for special use permit for any land use or structure permitted under this Section shall be submitted and processed under the following procedures:

- 1) Submission of Application: Any application shall be submitted through the Village Clerk on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the Village Council to cover costs of processing the application.
- 2) Data Required: Every application shall be accompanied by the following information and data:
 - a. The special form supplied by the Village Clerk filled out in full by the applicant, including a statement of supporting evidence concerning the required findings specified in Section 18.03.
 - b. Two (2) copies of a site plan, drawn to a readable scale (preferably 1"=100') and containing that information specified in Section 18.03.
- 3) Village Clerk Actions:
 - a. Within five (5) working days of the receipt of the submission of an application the Village Clerk shall determine whether it is in proper form, contains all required information and shows compliance with all applicable provisions of Section 16.02.
 - b. Upon certification by the Village Clerk that the site plan and application form are complete, one (1) copy of the site to any department considered to be impacted or affected by the Special Use Permit application.

Section 16.03 – Planning Commission Review and Discretionary Hearing:

The Planning Commission shall review the site plan and application at its next scheduled meeting following receipt from the Village Clerk. After adequate study and review, the Planning Commission may conduct a public hearing if it determines that such a hearing would be of material assistance in developing facts upon which to base its recommendation to the Village Council. Any such public hearing shall be preceded by at least one publication in a newspaper of general circulation in the Village at least fifteen (15) days prior to the date of the hearing. Said notice shall indicate the place, time and purpose of the hearing. Upon conclusion of its review and public hearing, if held, the Planning Commission shall transmit a written recommendation to the Village Council setting forth its recommendations as to the reasons for the recommended acceptance, denial or modification of the special use permit application.

Section 16.04 – Village Council Review:

Upon transference to the Village Council of the application and the Planning Commission's recommendation, the Village Council shall consider the application. Prior to its consideration, one notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the Village and shall be sent by mail or personal delivery on the owners of property for which approval is being considered and to all persons to which real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet of the

boundary of the property in question. The notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other district spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- 1) Describe the nature of the special land request;
- 2) Indicate the property which is the subject of the special land use request;
and
- 3) State when and where the special land use request will be considered.

Section 16.05 – Village Council Public Hearing:

A public hearing on the application for a special use permit shall be held where any of the following conditions exist:

- 1) If the Village Council desire to have a public hearing;
- 2) Upon the request of the applicant for the special use permit; or
- 3) Upon the request of a property owner or occupant of a structure location within 300 feet of the boundary of the property being considered for special land use.

In the event that a public hearing shall be necessary for any of the foregoing reasons, a notice indicating the time and place of the public hearing, where and when the application may be examined and how written comments may be received shall be given to all parties entitled to notice under the provisions of Section 16.04 in the same manner as therein required not less than five (5) and not more than fifteen (15) days before the scheduled public hearing.

Section 16.06 – Village Council Action:

Whether or not a public hearing is required to be held under Section 16.05, the Village Council shall review the application for special land use. It may deny, approve or approve with conditions the application for special land use approval. Its decision shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the decision and any conditions imposed. In arriving at its decision, the Village Council shall refer to and be guided by those standards set forth in Section 16.11 of this Ordinance. A request for approval of a land use of activity which is in compliance with those standards shall be approved.

Section 16.07 – Conditions;

Reasonable conditions may be required in conjunction with the approval of a special land use by the Village Council. Such conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

- 1) Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
- 2) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- 3) Be necessary to meet the intent and purpose of this Zoning Code and the various zoning regulations of the Village; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to ensure compliance with those standards.
- 4) Conditions and requirements stated as part of Special Use Permit authorization shall be a continuing obligation of the Special Use Permit holders. The Zoning Administrator shall make periodic investigations of developments authorized by Special Use Permit to determine compliance with all requirements.
- 5) In approving the Special Use Permit, the Village Council may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Village, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. Such requirements shall be limited to public improvements regarding a Special Use Permit issued under Section 17.03 for a Mobile Home Development. The financial guarantee shall be deposited with the Village Clerk at the time of issuance of the permit authorizing the project or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

Section 16.08 – Permits:

A special use permit issued under Section 16.06 shall be valid for a period of six (6) months from the date of the issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this six (6) month period, the Zoning Administrator shall notify the applicant in writing of the expiration or revocation of said permit, provided, however the Village Council may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner of developer is maintaining a good faith intention to proceed with construction. The Planning Commission shall review every special use permit and the associated land use prior to the expiration of thee permit and shall recommend continuance or discontinuance of said permit based on whether the activities, structures and other site characteristics satisfactorily comply with the conditions stipulated in the special use permit. This determination of the Planning Commission shall be forwarded to the Village Council with a recommended action.

Permit Revocation: The Village Council shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable conditions specified in the permit. After a revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance. The violation shall be reported to the Village Attorney who is hereby authorized to and shall initiate procedures to eliminate such violations. For each and every day the violation continues beyond the aforementioned sixty (60) days, a separate offense shall be declared. Any person, firm, corporation or legal entity violating any provisions of this Ordinance shall be adjudge guilty of maintaining a nuisance per se, punishable by imprisonment for not more than ninety (90) days or by a fine of not more than five hundred (\$500) dollars or by both such fine and imprisonment.

Section 16.09 – Reapplication:

No application for a special use permit which has been denied wholly or in part by the Village Council shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence of proof of changed conditions.

Section 16.10 – Changes in the Site Plan:

The site plan, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this ordinance receives the mutual agreement of the landowner and the Planning Commission.

Section 16.11 – Bases for Determination:

The Planning Commission, before making a recommendation on a special use permit application, and the Village Council, before acting on a special use permit application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Ordinance and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment and the capacities of public services and facilities affected by the land use. The land use or activity shall be consistent with the public health, safety and welfare of the Village and shall comply with the following standards:

General Standards: The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on its proposed location will:

- 1) Be harmonious with and in accordance with the general principles and objective of this Ordinance;
- 2) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;
- 3) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
- 4) Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools;
- 5) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, flare or odors;
- 6) Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to ensure compliance with these standards;
- 7) Ensure that landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas;
- 8) Ensure that special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

- 9) Certify that all loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential properties or public thoroughfares shall be screened by a vertical screen consisting of structural (fence) or plant materials no less than six (6) feet in height, but not less than the height of the material being stored, not to exceed eight (8) feet in height; and
- 10) Assume that all exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

The foregoing general standards are basic to all uses authorized by special use permit. The specific and detailed requirements set forth in the following sections relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements where applicable.

SECTION 17 – SPECIFIC PROVISIONS:

The following definitions, regulations and conditions apply to the uses of land listed in Sections 8 – 13 of this Ordinance, provided that a specific reference is made to this Section. The regulations contained in this Section shall not be construed to override or replace any other applicable definitions, condition or regulation contained elsewhere in this Ordinance unless specifically noted.

Section 17.01 – Multi-Family Dwellings and conversions of Existing large Single-Family Homes on Existing Lots:

17.01.1 – Regulations and Conditions:

- 1) Conversion of existing homes into multi-family units shall have a minimum of five hundred (500) square feet of floor area per dwelling unit. Each unit shall be provided with at least one (1) off-street parking space;
- 2) Multi-Family dwelling units shall meet the following site development standards:
 - a. Maximum lot coverage – thirty-five (35) feet.
 - b. Lot size shall contain four thousand (4,000) square feet per dwelling unit.
 - c. Multi-family dwellings must have an average of seven hundred fifty (750) square feet per unit. No more than ten (10%) percent of all units in the building shall be efficiency.
 - d. Each unit shall be provided with two (2) off-street parking spaces.
- 3) All signs and off-street parking shall be in compliance with this Ordinance.

Section 17.02 – Grouped Housing Developments:

17.02.1 – Definition: Residential housing customarily known as garden apartments, terrace apartments, town houses, row housing units, condominiums and other housing structures of similar character where two (2) or more buildings of similar character are built on one (1) parcel or lot.

17.02.2 – Site Development Requirements:

- 1) Minimum Site Area: No group housing development shall be authorized with a gross area of less than one (1) acre.
- 2) Minimum Lot Area: No group housing development shall be established on a lot nor parcel having a width less than two hundred (200) feet. The lot area per family or dwelling unit shall not be less than five thousand (5,000) square feet
- 3) Maximum Lot Coverage: Not more than thirty-five (35%) percent of the net area within the property lines of a group housing project, including accessory building, shall be covered by buildings.
- 4) Yards: The minimum horizontal distance between buildings (front to front, rear to rear, or front to rear) shall be fifty (50) feet. The minimum horizontal distance between sides of buildings shall be not less than twenty (20) feet.
- 5) Yard Dimensions: No building shall be closer than forty (40) feet to any street, fifty (50) feet to any rear property line or twenty (20) feet to an interior side property line. No building shall be closer than twenty-five (25) feet to any street right-of-way line.
- 6) Street and Access Ways: All streets and access ways, public or private, shall meet the requirements and specifications of the Eaton County Road Commission.
- 7) No dwelling in a grouped housing development shall be closer to a street access drive or a parking area than twenty-five (25) feet.
- 8) All signs and off-street parking shall be in compliance with this Ordinance.
- 9) Maximum height shall be thirty-five (35) feet.

Section 17.03 – Mobile Home Developments:

17.03.1 – Definitions: A mobile development is a mobile home part or a mobile home condominium development subject to the provisions of Public Act 96 of 1987, as amended.

17.03.2 – Regulations and Conditions:

- 1) The following uses may be permitted within mobile home developments:
 - a. Mobile/manufactured homes;

- b. One (1) office building to be used exclusively for conducting the business operations of the mobile home development;
 - c. Recreation areas, community buildings, playgrounds and open space areas;
 - d. Utility buildings for laundry facilities, including laundromats and auxiliary storage space; or
 - e. Such additional accessory buildings and uses as are customarily incidental to mobile home developments.
- 2) Site plan standards:
- a. The site shall have access to or be connected by a permanent easement to an all-weather public thoroughfare.
 - b. The minimum size for a mobile home development shall be fifteen (15) contiguous acres exclusive of public road rights-of-way.
 - c. All mobile home developments shall provide for underground installation of all utilities.
 - d. Public sewer shall be required in mobile home developments, if available.
- 3) Mobile home site standards:
- a. The mobile home part shall be developed with sites averaging 5,500 square feet per mobile home unit. The 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open and distance requirements be less than that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.
 - b. A ten (10) foot wide buffer zone shall be provided along all exterior boundaries of a mobile home development which abuts existing residential use. The buffer shall be measured from the development property line inward. The buffer shall be planted with evergreens and shrubs not less than two (2) feet in height at the time of planting and which contain foliage throughout the calendar year sufficiently compact in nature to form, at maturity, a natural buffer or screen between the mobile home development and adjoining premises. The buffer shall be maintained at all times in a neat and attractive manner.
 - c. No mobile home site shall be located nearer than fifty (50) feet to the edge of the right-of-way line of any dedicated public road or highway right-of-way.

- 4) Mobile home standards:
 - a. All mobile homes which are placed on lots within mobile home developments shall be required to have U.S. Department of Housing and Urban Development (HUD) mobile home certification, or to be built to the A.N.S.I. Code requirements.
 - b. All mobile homes placed within mobile home developments shall have a minimum of seven hundred twenty (720) square feet of floor area exclusive of garage, basement or porch.
 - c. Prior to occupancy, the mobile home shall be connected to a public sanitary sewer, if available.
 - d. All mobile homes, and additions thereto, are required to obtain a building permit prior to placement on a lot.
 - e. Skirting shall be installed around the entire periphery of a mobile home.
- 5) Streets and Parking:
 - a. All one-way roads within a mobile home development shall have a minimum width of thirteen (13) feet, with no parking permitted on the roadway; twenty-three (23) feet where parallel parking is permitted along one side of the roadway; thirty-three (33) feet where parallel parking is permitted along both sides of the roadway.
 - b. All two-way roads within a mobile home development shall have a minimum width of twenty-one (21) feet, with no parking permitted on the roadway; thirty-one (31) feet where parallel parking is permitted along one side of the roadway; forty-one (41) feet where parallel parking is permitted along both sides of the roadway.
 - c. Sidewalks, where constructed, shall be at least three (3) feet in width.
- 6) Open space:
 - a. At least one open space area shall contain an area which is not less than ten thousand (10,000) contiguous square feet.
 - b. In order to be eligible as an open space area, a site shall be at least fifteen (15) feet in every dimension and shall contain not less than five hundred (500) contiguous square feet.
 - c. Open space areas shall not include existing or proposed street rights-of-way, parking areas, mobile homes, mobile home lots or non-recreational buildings.
 - d. Open space areas may be located within the one hundred (100) year flood plain.
- 7) Use restrictions:
 - a. Not more than thirty-five (35%) percent of the net area within each mobile home site shall be covered by building, including accessory buildings.

- b. All signs and off-street parking shall be in compliance with this Ordinance.

Section 17.04 – Institutional Structure and Uses:

17.04.1 – Authorization: In recognition of the many types of institutional, non-residential functions that have been found compatible and reasonably harmonious with residential uses, the Planning Commission and Village Council may authorize the construction, maintenance and operation in the RA-1 and RA-2 districts of institutional uses specified in the section.

17.04.2 – Permitted Institutional Uses: Churches, convents, cemeteries, parsonages and other housing for religious personnel, elementary and secondary schools, institutions or higher education, auditoriums and centers for social activity such as lodges and fraternal organizations.

17.04.3 – Site Development Standards:

- 1) The proposed site shall be at least forty thousand (40,000) square feet in size.
- 2) The proposed site shall be so located as to have at least one property line on an all-weather, public thoroughfare. All ingress and egress to the site shall be directly onto said thoroughfare.
- 3) No building shall be closer than fifty (50) feet to any street right-of-way or property line.
- 4) No more than thirty-five (35%) percent of the gross site area shall be covered by buildings.
- 5) All signs and off-street parking shall be in compliance with this Ordinance.

Section 17.05 – Public Facilities and Community Service Installations:

17.05.1 – Definitions:

- 1) A public facility is a facility under the operational control of a governmental unit, or some combination of governmental units including but not limited to offices, libraries, museums, halls, post offices, courts and civic centers.
- 2) A community service installation is a public or private utility installation or communications equipment (licensed by the Federal Communications Commission) including water towers, pumping stations, transformer stations, substations, gas regulator stations, microwave transmission towers, high voltage electrical transmission equipment and accessories reasonably necessary to provide needed community facilities and services.

17.05.2 – Regulations and Conditions:

- 1) No building shall be closer than fifty (50) feet to any property of street right-of-way line.
- 2) No more than thirty (30%) percent of the gross site area shall be covered by buildings
- 3) Free-standing towers shall only be allowed in the AG – Agricultural District or the LI – Light Industrial District.
- 4) Free-standing towers shall be set back from property lines a distance equal to the elevation of the tower. Free-standing towers in excess of one hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.
- 5) Lot area and width shall not be less than that specified for the district in which the proposed use would be located.
- 6) When mechanical equipment is located in the open air, it shall be screened from the surrounding view with suitable plant material and fused to the extent necessary to protect the public safety and to conserve the value of surrounding property.
- 7) All signs and off-street parking shall be in compliance with this Ordinance.

Section 17.06 - Sexually Oriented Businesses

17.06.1 - Intent: It is the intent and purpose of this section to regulate the location of, but not to exclude, sexually oriented businesses with the Village of Mulliken by preventing the concentration of such uses in any one area. The Village recognizes that there are some uses which, because of their very nature, have serious operational characteristics, particularly when concentrated in one location or when located in close proximity to residential zones and protected uses, thereby having a deleterious effect upon those adjacent areas. The Village recognizes that the regulation of such uses, through location, is necessary to ensure that the adverse effects associated with such businesses will not contribute to the blighting or downgrading of the surrounding residential neighborhoods.

17.06.2 - Definitions: The following definitions shall apply in connection with sexually oriented businesses:

- 1) Adult Merchandise Store: A commercial establishment which excludes minors, as defined in MCLA 722.51 et seq., and has a substantial or significant portion of its stock and trade in books, magazines, periodicals, photographs, video tapes, video cassettes, laser cassettes, films or other visual representations which depict, describe or portray “specified sexual activities” or “specified anatomical areas” as defined herein.

- 2) Adult Motion Picture Theatre: A commercial establishment which excludes minors, as defined in MCLA 722.51 et seq., and is used for presenting film or video tape recordings, having a dominant theme distinguished or characterized by emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein, during more than twenty-five (25%) percent of its operating hours.
- 3) Nude Body Painting or Modeling Studio: An establishment which excludes minors, as defined in MCLA 722.51 et seq., and which features, or offers, as a portion of its business, the services of body painting or nude photography of the human body through services of its models, masseurs, masseuses or employees who are nude, semi-nude or topless when performing those services.
- 4) Adult Mini-Motion Picture Theatre: An enclosed building or any portion of a building which excludes minors, as defined in MCLA 722.51 et seq., and which is used for presenting material which depicts, describes or portrays "specified sexual activities" or specified anatomical areas", as defined herein by any means of display, including, without limitation, by motion picture, mechanical amusement device, television (including video tape or closed circuit) or live performance for observations by patrons therein.
- 5) Adult Cabaret: A café, restaurant or bar, which excludes minors, as defined in MCLA 722.511 et seq., and where patrons are entertained by dancers, strippers or male or female impersonators, whether accompanied by music or not, whose conduct is characterized by an emphasis on "specified sexual activities, or "specified anatomical areas" as defined herein.
- 6) Adult Novelty Business: An establishment which excludes minors, as defined in MCLA 722.51 et seq., and which has, as a principal activity, the sale of devices which stimulate human genitals, or devices designed for sexual stimulation.
- 7) Adult Personal Service Business: An establishment which excludes minors, as defined in MCLA 722.51 et seq., and which has as its principal activity, a person or persons who, while nude, or while displaying "specified anatomical areas" as defined herein, provides personal services for another person. Such establishments include, but are not limited to, modeling studios, body painting studios, wrestling studios, conversation parlors and theatrical performances or entertainment.
- 8) Massage Parlor: An establishment which excludes minors, as defined in MCLA 722.51 et seq., and where massage is practiced, used or made available as a principal use of the premises.
- 9) Sexually Oriented Businesses: Sexually oriented businesses include adult merchandise stores, adult motion picture theatres, adult mini-motion picture theatres, nude body painting or modeling studios, adult cabarets, adult novelty businesses, adult personal service businesses and massage parlors.
- 10) Massage: Means manipulations of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating, through the use of physical, mechanical or other device, of the body of another, for a fee.
- 11) Protected Use: Means a church, school, library or park.

- 12) School: Means a public or private school offering education to students enrolled in kindergarten, or one or more grades, one through twelve.
- 13) Library: Means any library open to the public.
- 14) Church: Means a building used for regular public worship services and exempt from taxation under the General Property Tax Act of Michigan.
- 15) Park: Means any park owned by or maintained by the Village.
- 16) Specified Sexual Activities: Any of the following actual or simulated acts of:
 - a. Display of human genitals in a state of sexual stimulation or arousal;
 - b. Human sexual intercourse, homosexual or heterosexual;
 - c. Human or animal masturbation;
 - d. Bestiality;
 - e. Fellatio;
 - f. Cunnilingus;
 - g. Human excretory functions;
 - h. Homosexuality; or
 - i. Lesbianism.
- 17) Specified Anatomical Areas: Are defined as:
 - a. Less than completely and opaquely covered;
 - i. Human genitalia and pubic region;
 - ii. Buttock; and
 - iii. Female breast below a point immediately above the top of the areola.
 - b. Human male genitals in a discernibly turgid state, even if completely or opaquely covered

17.06.3 – Locational Provisions: Sexually oriented businesses may be located in the Village only in accordance with the following provisions:

- 1) No sexually oriented businesses shall be located within three hundred (300) feet of any other sexually oriented business, as measured from property line to property line.
- 2) No sexually oriented business, shall be located within three hundred (300) feet of a protected use, as defined herein, measured from property line to property line.
- 3) No sexually oriented business, shall be located within seventy-five (75) feet of any district zoned RA-1 or RA-2 under the terms of this Ordinance, as measured from property line to zoning district boundary.
- 4) No sexually oriented business shall be located within any zoning district other than B-1 (Central business district).

17.06.4 – Waiver of Location Provisions: The Village Council, after receiving a report and recommendation from the Planning Commission, may waive the locational provisions of Section 17.06.3 if the following findings are made:

- 1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of the purpose of the location provisions will be observed;
- 2) That the proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight;
- 3) That the establishment of the proposed use in the area will not be contrary to any program of neighborhood conservation and will not interfere with any program of urban renewal; and
- 4) That all other applicable regulations within this ordinance or other pertinent Village ordinances will be observed.

Section 17.07 - Public and Private Non-Commercial Parks or Recreation Areas:

17.07.1 - Definition: A public or private park or commercial recreational area includes a parcel of land used for, but not limited to, playgrounds, sports fields, game courts, beaches, trails, and picnicking areas for the pleasure of the general public or private groups on a commercial or non-commercial basis.

17.07.2 - Regulations:

- 1) Minimum lot size shall be (1) acre.
- 2) Frontage shall be required on a public thoroughfare.
- 3) Minimum frontage shall be one hundred (100) feet.
- 4) Children's amusement parks such as miniature golf courses and similar uses shall be completely enclosed on all sides by a wall or fence of four (4) feet in height.

Section 17.08 - Gasoline Service Stations, Parking Garages, Commercial Garages:

17.08.1 - Definition:

- 1) Gasoline Service Station: A structure, building or parcel of land, or any portion thereof, used for the retail dispensing or sale of vehicular fuels or other flammable fuels and including minor repair services as defined in R257.111, Michigan Administrative Code, as amended.
- 2) Parking Garage: A structure, building or parcel of land, or any portion thereof, used for the storage or parking of motor vehicles or boats, operated as a business, and excluding minor or major repair services as defined in R257.111, Michigan Administrative Code, as amended.
- 3) Commercial Garage: A building, structure or parcel of land, or any portion thereof, used for the repairing, cleaning, sewing, equipping, painting, or diagnosing of motor vehicles when operated as a business and not necessarily required to be registered as a Motor Vehicle Repair Facility pursuant to Act 300 of 1974, as amended.

17.08.2 - Regulations and Condition:

- 1) Minimum lot size shall be one (1) acre.
- 2) Minimum frontage of one hundred (100) feet shall be required.
- 3) Minimum lot area shall be increased five hundred (500) square feet for each fuel pump unit in excess of four (4), one thousand (1,000) square feet for each service bay in excess of two (2), and three hundred (300) square feet for each parking space intended for the storage of inoperative vehicles.
- 4) All buildings and necessary structures including gasoline pumps shall be set back fifty (50) feet from any lot line and seventy-five (75) feet from any street right-of-way line.
- 5) All equipment including hydraulic hoist, pits and oil, lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage or merchandise such as tires, lubricants and other accessory equipment.
- 6) All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- 7) There shall be no above ground tanks for the storage of gasoline, liquified petroleum gas, oil or other flammable liquids or gases.
- 8) All signs and off-street parking and loading shall be in conformance with this Ordinance.

Section 17.09 – Automobile Salvage and Private Junkyard:

17.09.1 - Definitions:

- 1) Automotive Salvage Yard: Any parcel of land used for the purpose of selling, exchanging or dealing in motor vehicle parts which requires a license from the Secretary of State pursuant to Public Act No. 300 of 1949, as amended, specifically those operating defined as used vehicle parts dealer, a vehicle salvage pool or a vehicle scrap metal processor.
- 2) Junkyard: As defined in Section 3.02.

17.09.2 - Regulations and Conditions:

- 1) All uses shall be established and maintained in accordance with all applicable state laws.
- 2) The site shall be a minimum of five (5) acres in size.
- 3) The site shall have access on a Village primary road as defined in this Ordinance.
- 4) A solid fence, wall or earthen berm at least six (6) feet in height shall be provided around the periphery of the site to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the enclosed area.

- 5) Industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
- 6) All fenced-in areas shall be set back at least fifty (50) feet from any front street or property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. The spacing and type of plant materials will be determined by the Township Board after receiving a recommendation from the Planning Commission.
- 7) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within an area screened from public view.
- 8) Whenever the installation abuts upon property within a residential district, a transition strip at least one hundred (100) feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass and structural screens to effectively minimize the appearance of the installation and to help confine odors therein.

Section 17.10 – Slaughter Houses and Meat, Poultry or Food Processing Plants:

17.10.1 - Definitions: A slaughter house or meat or poultry processing plant is a facility where livestock, poultry and/or food are brought to be slaughtered, processed and packaged.

17.10.2 - Regulations and Conditions: All regulations and conditions for the LI Light Industrial District shall apply except that:

- 1) Access shall be restricted to a Village primary thoroughfare only;
- 2) Minimum lot width shall be three hundred (300) feet;
- 3) Minimum lot size shall be five (5) acres; and
- 4) No animal storage facility or holding pen shall be less than one hundred fifty (150) feet from any lot line.

Section 17.11 – Raising and Keeping of Livestock or Small Animals:

17.11.1 - Definition: Raising and keeping of livestock or small animals shall include cattle, hogs, horses, ponies, sheep, swine and similar livestock or small animals such as rabbits, poultry, goats, or similar small animals.

17.11.2 - Regulations and Conditions: All regulations and conditions for the AG – Agricultural District shall apply except that:

- 1) Minimum lot size shall be ten (10) acres;
- 2) No livestock or small animals shall be housed or kept within 300 feet from the property line of any parcel zoned RA-1, RA-2, B-1, or B-2;
- 3) Limits on the number and type of livestock or small animals may be established to protect the character of the predominate uses in the area and the use and enjoyment of adjacent properties by neighboring residents;
- 4) Special conditions may be imposed to reduce the odor, sounds and movement of livestock or small animals to non-disturbing levels to avoid negatively impacting adjacent properties and uses.

SECTION 18 – SITE PLAN REQUIREMENTS:

Section 18.01 – Purpose:

It is the purpose of this Section to specify standards and data requirements which shall be followed in the preparation of site plans, plot plans or development plans as specified in Section 11.

Section 18.02 – Approval Required:

- 1) For those uses requiring Special Use Permits as specified;
- 2) For all uses within the LI – Light Industrial District; and
- 3) For all condominium projects.

Section 18.03 – Data Required:

Shall be provided on a professional quality drawing of scale 1" = 100'

- 1) Property dimensions and legal descriptions, including angles, lot area and an arrow pointing North.
- 2) The intended use, size, shape, location, height and floor area of proposed buildings and finished ground and basement grades.
- 3) Natural features such as woodlots, streams, county drains, lakes or ponds, and manmade features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
- 4) Existing public right-of-way and private easements of record.
- 5) Proposed streets, driveways, parking spaces, sidewalks, with indication of direction of travel and the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks, the total number of parking spaces and the dimensions of a typical individual parking space and associated aisles.
- 6) A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any public thoroughfare(s).
- 7) Location of water supply and the location and design of waste water systems.
- 8) Proposed location of accessory buildings and use, including free standing signs.
- 9) A landscaping plan indicating the locations of planting and screening, fencing and lighting. Also, proposed locations of common open spaces, if applicable.
- 10) Such other information as is necessary to enable the Planning Commission to determine whether the proposed site plan will conform to the provisions of this Ordinance.

SECTION 19 – NONCONFORMING USES OF LAND AND STRUCTURES:

Section 19.01 – Intent and Purpose:

It is recognized that there exists within the districts established by the Ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended, which would be prohibited, regulation or restricted under the terms of this Ordinance. It is the intent of this Section to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival.

Section 19.02 – Nonconforming Lots:

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

Section 19.03 – Nonconforming Uses of Land:

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

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

Section 19.04 – Nonconforming Structures:

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

- 1) No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located. Furthermore, any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this

Ordinance, but no such use shall be extended to occupy any land outside such building.

- 2) Should such structure be destroyed by any means to an extent of more than sixty (60%) percent of twice its assessed evaluation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- 3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- 4) 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 in which such structure is located, and the nonconforming use may not thereafter be resumed.
- 5) Where 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.
- 6) Should use of such structure be discontinued for six (6) consecutive months, or for twelve (12) months during any three (3) year periods, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this Ordinance.

Section 19.05 – Change in Nonconforming Uses:

Respective of other requirements of this Section, if no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of the same or a more restricted classification, provided that the Board of Zoning Appeals 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 Zoning Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Section. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

Section 19.06 – Repairs and Maintenance:

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50%) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 19.07 – Change of Tenancy or Ownership:

As long as there is no change in the character or nature of the nonconforming use, a change of tenancy or ownership is allowed.

Section 19.08 – District Changes:

Whenever the boundaries of a district shall be changed so as to transfer any area from one district to another district or another classification, the provisions of this Section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

Section 19.09 – Hardship Cases:

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Village Council when the Council finds that the request is a case of exceptional hardship in which failure to grant the relief requested unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, EXCEPT that any approval for structural changes, alteration or enlargement may be granted only with the finding by the Council that approval will not have an adverse effect on surrounding property and that it will be the minimum necessary to relieve the hardship.

Section 19.10 – Illegal Nonconforming Uses:

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without approval of zoning compliance or without a valid building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

SECTION 20 – AMENDMENTS:

Section 20.01 – Purpose and Intent:

The purpose of this Section is to establish and maintain sound, stable and desirable development within the territorial limits of the Village.

Section 20.02 – Initiation of Amendments:

Only the Village Council may amend this Ordinance. Proposals for amendments or changes may be initiated by the Village Council on its own motion, by the Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.

Section 20.03 – Filing Fee:

The Village Council shall establish by resolution, a fee to be paid in full at the time of receipt of any application to amend this Ordinance. Said fee shall be collected by the Village Clerk and no part shall be refundable to the applicant. No fee shall be charged when the applicant is a governmental body.

Section 20.04 – Procedures:

20.04.1 – Application: A petitioner shall submit a completed and signed application for Ordinance amendment, along with the appropriate fees, to the Village Clerk. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.

20.04.2 – Action of Clerk: The Village Clerk shall review the application form to ensure it is complete. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission.

20.04.3 – Notice of Hearing: After transmitting the amendment application to the Planning Commission the Clerk shall establish a date for a public hearing on the application which will be conducted by the Planning Commission within forty-five (45) days of the date of application receipt. The Clerk shall give notice of the public hearing in the following manner:

- 1) By one publication in a newspaper of general circulation in the Village not more than thirty (30) days nor less than ten (10) days before the date of the hearing.
- 2) For any proposed amendment to the Official Zoning Map, written notice will be delivered by mail, or personally, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all dwelling units within three hundred (300) feet of the premises in question. The notice shall be made at least fifteen (15) days prior to the hearing. Requirements of written notice to property owners shall not apply to comprehensive revision to the Zoning Ordinance.

Section 20.05 – Application Information:

When the petition involves a change in the Official Zoning Map, the applicant shall submit the following information to the Village Clerk.

- 1) A legal description of the property;
- 2) A scaled map of the property, correlated with the legal description, and clearly showing the property's location;
- 3) The name and address of the applicant;
- 4) The applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner;
- 5) Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information; and
- 6) The desired change and reasons for such change.

Section 20.06 – Planning Commission Recommendations:

20.06.1 – Scope of Examination: In reviewing any application for an amendment to this Ordinance, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its finding in full along with its recommendation for disposition of the application to the Village Council with a period of sixty (60) days. The matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:

- 1) What identifiable conditions related to the application have changed which justify the proposed amendment?
- 2) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?

- 3) What is the impact on the ability of the Village and other governmental agencies to provide adequate public services and facilities, and//or programs that might reasonably be required in the future if the proposed amendment is adopted?
- 4) Does the petitioned district change adversely affect environmental conditions or the value of the surrounding property?
- 5) The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.

20.06.2 – Findings of Facts: All findings of fact shall be made a part of the public records of the meetings of the Planning Commission. The Planning Commission shall transmit its findings of fact and a summary of comments received at the public hearing to the Village Council.

20.06.3 – Outside Agency Review: In determining the above-mentioned findings of fact the Planning Commission may solicit information and testimony from officials of, but to limited to, the following agencies:

- 1) Eaton County Health Department;
- 2) Eaton County Road Commission;
- 3) Eaton County Drain Commission; and
- 4) Any school district affected.

Section 20.07 – Consideration by the Village Council:

After receiving the recommendations of the Planning Commission, the Village Council at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the full membership of the Village Council. It is understood pursuant to Act 184 of the Public Acts of 1943, as amended, that the Council shall not deviate from the recommendation of the Planning Commission without first referring the application back to the Planning Commission, which shall have thirty (30) days from and after such referral in which to make further recommendation to the Village Council, after which the Village Council shall take such action as it determines. In the event that an application is referred back to the Planning Commission, the Village Council shall make specific mention of their objections to the Planning Commission's findings and recommendations. In order to lessen the possibility of adverse litigation concerning the zoning district decisions of the Village Council, the Council shall make a written record of the rationale for the action taken on each application for amendment to this Ordinance.

Section 20.08 – Publication of Notice of Ordinance Amendments:

Following adoption of amendments to this ordinance, one (1) notice of adoption shall be published in a newspaper of general circulation in the Village within fifteen (15) days after adoption. The notice shall include the following information:

- 1) Either a summary of the regulatory effect of the amendment including the geographic area affect, or the text of the amendment;
- 2) The effective date of the amendment; and
- 3) The place and time where a copy of the amendment may be purchased or inspected.

Section 20.09 – Resubmittal:

No application for rezoning which has been denied by the Village Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence of proof of changed conditions found upon inspection by the Village Council to be valid.

Section 20.10 – Comprehensive Review of Zoning Ordinance:

The Planning Commission shall, at intervals of not more than five (5) years, examine the provisions of this ordinance and the location of zoning district boundary lines and shall submit a report to the Village Council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

SECTION 21 – INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL, PENALTIES, AND EFFECTIVE DATE:

Section 21.01 – Interpretation and Conflicts:

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

Section 21.02 – Severance Clause:

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid. If any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

Section 21.03 – Vested Rights:

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; 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 21.04 – Repeal:

All ordinances and amendments thereto enacted and/or adopted by the Village by virtue of Act 207 of the Public Acts of 1921, as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act

done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

Section 21.05 – Penalties and Remedies:

- 1) Civil Law: Any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.
- 2) Criminal Law: Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses and violations of approved site plans, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred (\$500) dollars or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- 3) Remedies: The Village Council may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

Section 21.06 – Effective Date:

This Ordinance becomes effective thirty (30) days after final adoption by the Village Council.