

Village of Fruitport Land Use Zoning Ordinance

Adopted November 18th, 2019.

Latest Revision August 2024

**SUMMARY TABLE OF RECENT AMENDMENTS TO VILLAGE OF
FRUITPORT LAND USE ZONING ORDINANCE**

Chapter	Effective Date	Amended Sections	Description
3	9-8-24	3.10 A 5 & A 8	Limiting the size of attached accessory buildings
3	9-8-24	3.24 E	Keeping of chickens (hens only). Reference to Code of Ordinances.
7	9-8-24	7.03 Table Titled Lot, Yard, and Building Requirements	Increasing side setback
8	9-8-24	8.03 Table Titled Lot, Yard, and Building Requirements	Increasing side setback
8	9-8-24	8.08 H	Outdoor display of public art

TABLE OF CONTENTS

CHAPTER 1 - TITLE, PURPOSE, SCOPE AND LEGAL BASIS	1-1
SECTION 1.01 TITLE	1-1
SECTION 1.02 PURPOSE	1-1
SECTION 1.03 SCOPE	1-2
SECTION 1.04 LEGAL BASIS.....	1-2
SECTION 1.05 REPEAL	1-2
SECTION 1.06 CONFLICTS WITH OTHER LAWS	1-2
CHAPTER 2 - RULES OF CONSTRUCTION & DEFINITIONS	2-1
SECTION 2.01 RULES APPLYING TO TEXT.....	2-1
SECTION 2.02 DEFINITIONS - A.....	2-2
SECTION 2.03 DEFINITIONS - B.....	2-6
SECTION 2.04 DEFINITIONS - C.....	2-9
SECTION 2.05 DEFINITIONS - D.....	2-11
SECTION 2.06 DEFINITIONS - E.....	2-13
SECTION 2.07 DEFINITIONS - F.....	2-14
SECTION 2.08 DEFINITIONS - G.....	2-18
SECTION 2.09 DEFINITIONS - H.....	2-18
SECTION 2.10 DEFINITIONS - I.....	2-18
SECTION 2.11 DEFINITIONS - J.....	2-18
SECTION 2.12 DEFINITIONS - K.....	2-19
SECTION 2.13 DEFINITIONS - L.....	2-19
SECTION 2.14 DEFINITIONS - M.....	2-22
SECTION 2.15 DEFINITIONS - N.....	2-24
SECTION 2.16 DEFINITIONS - O.....	2-25
SECTION 2.17 DEFINITIONS - P.....	2-26
SECTION 2.18 DEFINITIONS - Q.....	2-27
SECTION 2.19 DEFINITIONS - R.....	2-27
SECTION 2.20 DEFINITIONS - S.....	2-28
SECTION 2.21 DEFINITIONS - T.....	2-36
SECTION 2.22 DEFINITIONS - U.....	2-36
SECTION 2.23 DEFINITIONS - V.....	2-36
SECTION 2.24 DEFINITIONS - W.....	2-38
SECTION 2.25 DEFINITIONS - X.....	2-38
SECTION 2.26 DEFINITIONS - Y.....	2-39
SECTION 2.27 DEFINITIONS - Z.....	2-40
CHAPTER 3 - GENERAL PROVISIONS.....	3-1
SECTION 3.01 CHAPTER APPLICABILITY.....	3-1
SECTION 3.02 APPLICATION OF ZONING	3-1
SECTION 3.03 GRADING, EXCAVATION, FILING, CREATION OF PONDS AND CLEARING OF TREES	3-1
SECTION 3.04 FRONTAGE REQUIRED ON A STREET	3-2

SECTION 3.05	MAIN BUILDING OR PRINCIPAL USE.....	3-2
SECTION 3.06	CLEAR VISION AT INTERSECTIONS.....	3-2
SECTION 3.07	HEIGHT EXCEPTIONS.....	3-2
SECTION 3.08	LOTS AND SETBACK MEASUREMENT	3-2
SECTION 3.09	PROJECTIONS INTO YARDS	3-4
SECTION 3.10	ACCESSORY BUILDINGS AND USES	3-5
SECTION 3.11	FENCES	3-8
SECTION 3.12	NONCOMMERCIAL WIND ENERGY CONVERSION SYSTEMS	3-9
SECTION 3.13	WOOD FURNACE OR OUTDOOR WOOD STOVE	3-10
SECTION 3.14	STORAGE OF FIRE WOOD.....	3-10
SECTION 3.15	ACCUMULATION OF WASTE	3-10
SECTION 3.16	HOME OCCUPATIONS	3-11
SECTION 3.17	REGULATIONS APPLICABLE TO SINGLE FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS.....	3-11
SECTION 3.18	TEMPORARY USES AND BUILDINGS	3-13
SECTION 3.19	STORAGE OF RECREATIONAL VEHICLES	3-14
SECTION 3.20	STORAGE AND REPAIR OF VEHICLES	3-15
SECTION 3.21	ESSENTIAL PUBLIC SERVICES.....	3-16
SECTION 3.22	MOVING OR RAZING OF BUILDINGS	3-16
SECTION 3.23	GARAGE AND YARD SALES	3-16
SECTION 3.24	KEEPING OF ANIMALS	3-16
SECTION 3.25	PROHIBITION OF MEDICAL MARIHUANA DISPENSARIES	3-17
SECTION 3.26	RESERVED	3-17
SECTION 3.27	RESERVED	3-17
SECTION 3.28	RESERVED	3-17
CHAPTER 4 - NONCONFORMITIES.....		4-1
SECTION 4.01	INTENT.....	4-1
SECTION 4.02	GENERAL REQUIREMENTS	4-1
SECTION 4.03	NONCONFORMING USES	4-2
SECTION 4.04	NON-CONFORMING BUILDINGS.....	4-4
SECTION 4.05	NONCONFORMING LOTS	4-4
SECTION 4.06	NONCONFORMING SIGNS.....	4-5
CHAPTER 5 - SITE CONDOMINIUMS AND LAND DIVISIONS		5-1
SECTION 5.01	SITE CONDOMINIUMS	5-1
SECTION 5.02	LAND DIVISIONS	5-2
CHAPTER 6 - ESTABLISHMENT OF DISTRICTS		6-1
SECTION 6.01	ESTABLISHMENT OF DISTRICTS	6-1
SECTION 6.02	OFFICIAL ZONING DISTRICTS MAP	6-1
SECTION 6.03	INTERPRETATION OF DISTRICT BOUNDARIES	6-1
SECTION 6.04	ZONING OF VACATED AREAS	6-2
CHAPTER 7 - RESIDENTIAL DISTRICTS.....		7-1

SECTION 7.01	INTENT AND PURPOSE	7-1
SECTION 7.02	TABLE OF USES	7-2
SECTION 7.03	LOT, YARD AND BUILDING REQUIREMENTS.....	7-3
SECTION 7.04	PARKING REQUIRMENTS	7-4
SECTION 7.05	PARKING LOCATION	7-5
SECTION 7.06	DESIGN STANDARDS	7-5
SECTION 7.07	SIGNS PERMITTED	7-6
SECTION 7.08	SIGNS PROHIBITED	7-6
SECTION 7.09	SIGNS EXEMPTED	7-7
SECTION 7.10	GENERAL SIGN REGULATIONS	7-7
CHAPTER 8 - BUSINESS DISTRICTS		8-1
SECTION 8.01	INTENT AND PURPOSE	8-1
SECTION 8.02	TABLE OF USES	8-1
SECTION 8.03	LOT, YARD AND BUILDING REQUIREMENTS.....	8-4
SECTION 8.04	PARKING REQUIREMENTS	8-5
SECTION 8.05	PARKING LOCATION	8-7
SECTION 8.06	DESIGN STANDARDS	8-8
SECTION 8.08	OUTDOOR DISPLAY	8-9
SECTION 8.09	SIGNS.....	8-10
SECTION 8.10	SIGNS PROHIBITED.....	8-12
SECTION 8.11	SIGNS EXEMPTED	8-12
SECTION 8.12	GENERAL SIGN REGULATIONS	8-13
CHAPTER 9 - PLANNED UNIT DEVELOPMENT DISTRICT		9-1
SECTION 9.01	STATEMENT OF PURPOSE	9-1
SECTION 9.02	ELIGIBILITY CRITERIA	9-2
SECTION 9.03	TYPES OF PUDS	9-3
SECTION 9.04	RESIDENTIAL PUD (RPUD) STANDARDS.....	9-3
SECTION 9.05	MIXED USE PUD (MPUD)	9-4
SECTION 9.06	OPEN SPACE REQUIREMENTS FOR ALL PUDS.....	9-5
SECTION 9.07	PUD REVIEW PROCESS	9-7
SECTION 9.08	FINAL APPROVAL	9-10
SECTION 9.09	EXTENSIONS.....	9-11
SECTION 9.10	REVISIONS TO APPROVED PUD PLANS	9-11
SECTION 9.11	DEVELOPMENT AGREEMENT.....	9-13
SECTION 9.12	PERFORMANCE GUARANTEES.....	9-13
CHAPTER 10 - RESERVED		
CHAPTER 11 - MANUFACTURED HOME COMMUNITY		11-1
SECTION 11.01	INTENT AND PURPOSE	11-1
SECTION 11.02	TABLE OF USES	11-1
SECTION 11.03	DEVELOPMENT REQUIREMENTS.....	11-2
SECTION 11.04	LOT, YARD AND BUILDING REQUIREMENTS.....	11-2
SECTION 11.05	PARKING REQUIREMENTS.....	11-3
SECTION 11.06	LOCATION OF PARKING.....	11-3
SECTION 11.07	SIGNS	11-4

CHAPTER 12 - DEVELOPMENT REQUIREMENTS.....	12-1
SECTION 12.01 PRIVATE STREETS	12-1
SECTION 12.02 DUMPSTERS AND OUTDOOR TRASH CONTAINERS	12-3
SECTION 12.03 GREENBELTS, BUFFERS AND LANDSCAPING	12-5
SECTION 12.04 LOCATION OF PARKING.....	12-7
SECTION 12.05 PARKING LOT REQUIREMENTS	12-7
SECTION 12.06 PARKING LOT PLANS	12-8
SECTION 12.07 OFF-STREET LOADING REQUIREMENTS	12-11
SECTION 12.08 DEFERRED PARKING	12-11
SECTION 12.09 MAXIMUM PARKING LIMITATIONS.....	12-12
CHAPTER 13 - SITE PLAN REVIEW	13-1
SECTION 13.01 PURPOSE	13-1
SECTION 13.02 APPLICABILITY.....	13-1
SECTION 13.03 SITE PLAN SUBMITAL.....	13-2
SECTION 13.04 ADMINISTRATIVE FEES	13-5
SECTION 13.05 CHANGES IN THE APPROVED SITE PLAN	13-5
SECTION 13.06 REVIEW STANDARDS	13-6
SECTION 13.07 CONDITIONS OF APPROVAL	13-8
SECTION 13.08 PERFORMANCE GUARANTEE.....	13-8
CHAPTER 14 - SPECIAL LAND USES.....	14-1
SECTION 14.01 SCOPE.....	14-1
SECTION 14.02 APPLICATION AND REVIEW PROCEDURES	14-1
SECTION 14.03 EXISTING SPECIAL LAND USES	14-2
SECTION 14.04 GENERAL STANDARDS	14-2
SECTION 14.05 PERFORMANCE GUARANTEE.....	14-3
SECTION 14.06 SPECIAL LAND USE SPECIFIC REQUIREMENTS	14-4
SECTION 14.07 SPECIFIC STANDARDS	14-4
CHAPTER 15 - ZONING BOARD OF APPEALS.....	15-1
SECTION 15.01 MEMBERSHIP AND PROCEDURES	15-1
SECTION 15.02 INTERPRETATIONS	15-2
SECTION 15.03 APPEALS	15-2
SECTION 15.04 VARIANCES	15-3
SECTION 15.05 APPLICATIONS AND HEARINGS	15-5
SECTION 15.06 DECISIONS OF THE ZBA.....	15-5
SECTION 15.07 PERFORMANCE GUARANTEE.....	15-6
SECTION 15.08 RE-SUBMISSION	15-7
CHAPTER 16 - ADMINISTRATION.....	16-1
SECTION 16.01 ADMINISTRATION AND ENFORCEMENT	16-1
SECTION 16.02 ZONING ADMINISTRATOR DUTIES	16-1
SECTION 16.03 SCHEDULE OF FEES, ESCROW CHARGES AND EXPENSES ESTABLISHED BY VILLAGE COUNCIL	16-3
SECTION 16.04 PERFORMANCE GUARANTEE.....	16-3
SECTION 16.05 ZONING ORDINANCE AMENDMENTS.....	16-5

SECTION 16.06 ENFORCEMENT 16-8
SECTION 16.07 ZONING COMPLIANCE PERMIT..... 16-9
SECTION 16.08 STOP WORK ORDER..... 16-11
SECTION 16.09 SEVERABILITY CLAUSE 16-11
SECTION 16.10 EFFECTIVE DATE 16-11

OFFICIAL ZONING MAP, VILLAGE OF FRUITPORT

CHAPTER 1
TITLE, PURPOSE, SCOPE AND LEGAL BASIS

SECTION 1.01 TITLE

This Ordinance shall be known and may be cited as the "Village of Fruitport Zoning Ordinance."

SECTION 1.02 PURPOSE

This Ordinance is established for the following purposes:

- A. To promote and protect the public health, safety, and general welfare.
- B. To protect the stability of the economy, the character of residential development, and the viability of commercial areas within Village of Fruitport and to promote the orderly and beneficial development of these areas.
- C. To provide adequate light, air, privacy and convenience of access to property.
- D. To regulate the intensity of use of land and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate space and to protect the public health.
- E. To lessen and avoid congestion on streets.
- F. To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district, by regulating the use and bulk of buildings in relation to the land surrounding them.
- G. To protect the environment and conserve the expenditure of funds for public improvements and services.
- H. To conserve lands, waters and other natural resources for their most suitable purposes.
- I. To reduce hazards to life and property from flooding, air, and water pollution.
- J. To secure safety from fire and other dangers.
- K. To facilitate economic development of educational, recreational and other public facilities; to ensure appropriate locations and relationships of land uses; to ensure proper development of housing and commerce; and to enhance the social and economic stability of Village of Fruitport.

SECTION 1.03 SCOPE

- A. Zoning affects all structures and land uses within the Village.
- B. Uses, activities or structures not specifically mentioned in this Ordinance are prohibited.

SECTION 1.04 LEGAL BASIS

This Ordinance is enacted pursuant to the State of Michigan Zoning Act, PA 110 of 2006.

SECTION 1.05 REPEAL

- A. The Fruitport Zoning Ordinance, adopted March 18, 1996, as amended, and any prior zoning ordinances are hereby repealed effective coincident with the effective date of this Ordinance. The repeal of said ordinances shall not have the effect of releasing or relinquishing any penalty, forfeiture or liability incurred under the ordinance, or any part thereof, and the ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of penalty, forfeiture or liability.
- B. Conditions which have been attached to land, buildings, structures, and uses resulting from actions under a prior ordinance shall remain in effect unless specifically waived by this Ordinance, or through proper amendment, subject to the requirements of this Ordinance.

SECTION 1.06 CONFLICTS WITH OTHER LAWS

- A. The provisions of this Ordinance are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience and general welfare of the people at large.
- B. If there are found to be differences between the meaning or implication of any drawing, table, figure, title or section heading, the text of this Ordinance shall apply.
- C. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Village is a party.

D. Conflict or Inconsistency:

1. Internal: Unless otherwise specifically stated within this Ordinance, if two or more provisions are in conflict or are inconsistent with one another, then the most restrictive provision shall apply.
2. Local regulations: Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, or land; the height of buildings or structures; lot coverage; lot areas; yards or other open spaces; or any other use or utilization of land than are imposed or required by existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.
3. Federal & State Regulations: Whenever a provision of the Ordinance imposes a greater restriction or a higher standard than is required by any State or federal code or regulation, county or Village ordinance or regulation, the provision of this Ordinance shall apply. Whenever a provision of any State or federal code or regulation, County or Village ordinance or regulation imposes a greater restriction or a higher standard than is required by this Ordinance, the provision of the State or federal code or regulation, or other County or Village ordinance or regulation shall apply.
4. Private restrictions: Whenever a private covenant, contract, commitment, agreement, or other similar private land use regulation imposes a greater restriction or a higher standard than is required by a provision of the Ordinance, the Village is not obligated to enforce the provisions of such private covenants, contracts, commitments, agreements, or other similar regulations to which the Village is not a party. Unless the Village has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the Village.
5. State Law amendments: Whenever codes cited in this Ordinance refer to Michigan law which has been amended or superseded, this Ordinance shall be deemed amended in reference to the new or revised code.

CHAPTER 2
RULES OF CONSTRUCTION & DEFINITIONS

SECTION 2.01 RULES APPLYING TO TEXT

- A. If the meaning of a provision of this Ordinance is unclear in a particular circumstance, then the individual or body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of this Ordinance or law.
- B. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- C. Terms not herein defined shall have the meaning customarily assigned to them.
- D. The particular shall control the general. For terms used in this Ordinance, the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a "drug store," as used in this Ordinance, shall not be interpreted to be the same as a "retail store," since each is listed as a separate and distinct use.
- E. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- F. A "building" or "structure" also includes any part thereof.
- G. The word "person" includes an individual, a corporation, a partnership, a limited liability company or corporation, an incorporated association, or any other similar entity. A masculine term shall include the feminine version of the term and vice versa.
- H. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. "And," indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - 3. "Either...or," indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- I. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the Village or

other governmental agency 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 2.02 DEFINITIONS – A

ACCESS MANAGEMENT

A technique to improve traffic operations and safety along a major street through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to and across from one another; and the promotion of alternatives to direct access.

A. *Cross Access*

A method whereby access to property crosses one or more contiguous or adjacent properties. These may include driveway or parking lot connections with cross easements.

B. *Alternative Access*

A means of access that is not directly to the public street including frontage streets, rear access streets and access to existing or proposed streets.

C. *Shared Access*

A method whereby adjoining property owners share a common access to a street. These accesses are generally located at the common property line but may be located entirely on one property with access to another property by easement or other access agreement.

ACCESSORY APARTMENT

Apartment units above the first floor of commercial buildings meeting the regulations of this Ordinance.

ACCESSORY BUILDING

Except as otherwise specified by this Ordinance, a building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by, used, or devoted exclusively to an accessory use. When an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.

An accessory use includes, but is not limited to the following:

- A. Residential accommodations for domestic assistance and/or caretakers and garages for private vehicles;

- B. Swimming pools and tennis courts for the use of the occupants of a residence or their guests;
- C. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory or other structure;
- D. A newsstand primarily for the convenience of the occupants of a building which is located wholly within such building and has no exterior signs or displays;
- E. Accessory off-street parking spaces, open or closed, subject to the accessory off street parking regulations for the district in which the zoning lot is located;
- F. Uses clearly incidental to a main use such as but not limited to: offices of an industrial or commercial complex located on the site of the commercial or industrial complex;
- G. Accessory off-street loading subject to the off-street loading regulations for the district in which the zoning lot is located;
- H. Accessory signs subject to the sign regulations for the district in which the zoning lot is located.

ACCESSORY USE

A use naturally and normally incidental and subordinate to, and devoted exclusively to, the main use of the land or building.

ADULT USES

The term shall include adult bookstore, adult motion picture theater, adult motel, adult nightclub, and massage parlor. Adult uses include, but are not limited to: adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companion establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

1. Adult Uses-Accessory. An adult use, business, or establishment having no more than ten percent (10%) of the floor area fo the establishment in which it is located; or having no more than twenty percent (20%) gross receipts of the entire business operation; and not involving or including any activity including the sale or rental of merchandise, except the sale or rental of durable merchandise.
2. Adult Uses-Principal. An adult use, business, or establishment having more than ten percent (10%) of the floor of the establishment in which it is located; or having more than twenty

percent (20%) of the gross receipts of the entire business operation derived from any adult use.

These terms and terms related to these definitions, as noted, shall have the following meanings:

A. *Adult Bookstore*

An establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

B. *Adult Motion Picture Theater*

An enclosed building used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

C. *Adult Motel*

A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

D. *Adult Nightclub*

A theater or other establishment, which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers or similar entertainers, where these performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas."

E. *Massage Parlor*

An establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body and all forms of physiotherapy, unless operated by a medical practitioner, professional physical therapist or chiropractor licensed by the State of Michigan. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

F. *Sexual Conduct*

Considered to be characterized by, but not limited to, the following acts:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

G. *Specified Anatomical Areas*

Considered to be defined by, but not limited to, the following areas:

1. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

ANIMALS, WILD AND EXOTIC

Any living member of the animal kingdom, including those born or raised in captivity, except the following: Domestic dogs (*excluding* hybrids with wolves, coyotes, or jackals), domestic cats (*excluding* hybrids with ocelots or margays), ferrets, rodents, caged, nonvenomous snakes, captive-bred species of common cage birds.

ALLEY

A public way not more than thirty (30) feet in width which affords a secondary means of access to abutting property but not being intended for general traffic circulation.

ALTERATIONS

Any change, addition or modification to and in the construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."

ARCADE

Any place of business or establishment containing more than three (3) amusement devices.

ARCHITECTURAL FEATURES

Architectural features of a building include but are not limited to cornices, eaves, gutters, parapets, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

AVERAGE GRADE

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured prior to filling or grading.

SECTION 2.03 DEFINITIONS – B

BALCONY

A platform that projects from the wall of a building and is surrounded by a railing or parapet.

BANK (with respect to waterfront)

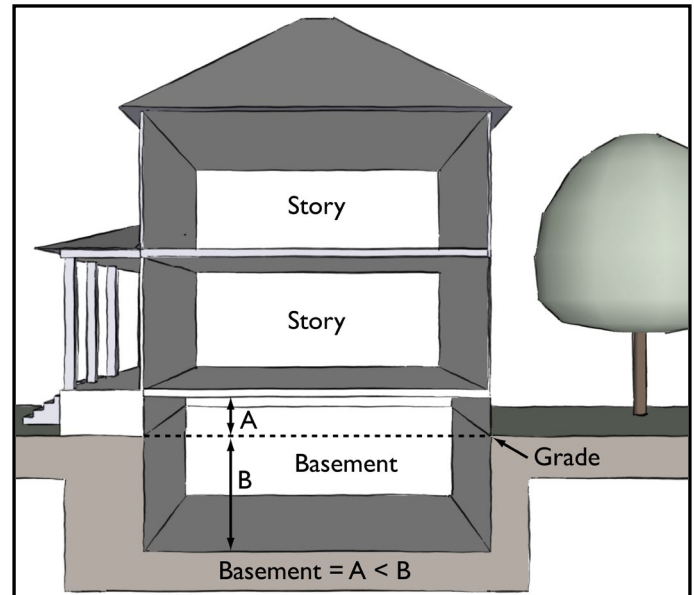
The rising ground bordering a watercourse, river, lake or reservoir.

BASEMENT OR CELLAR

A portion of a building having more than one-half ($\frac{1}{2}$) of its height below grade. See graphic.

BED & BREAKFAST ESTABLISHMENT

A use within a detached single dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.



BERM

A mound of soil less than three (3) feet in height, graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

BOARD OF APPEALS See ZONING BOARD OF APPEALS

BOARDING HOUSE OR ROOMING HOUSE

A dwelling having one kitchen and used for the purpose of providing meals and lodging for compensation to more than two persons on a weekly or other long term basis, other than members of the family occupying such dwelling.

BOAT SLIP

A parking space for the parking or storage of a boat.

BUILD-TO LINE

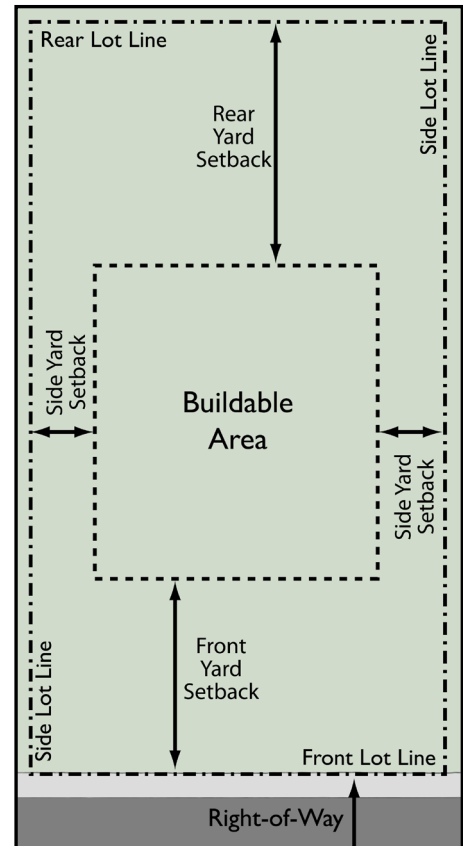
The line on which a main building must be placed with respect to the front yard setback.

BUILDABLE AREA

The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been met. See graphic.

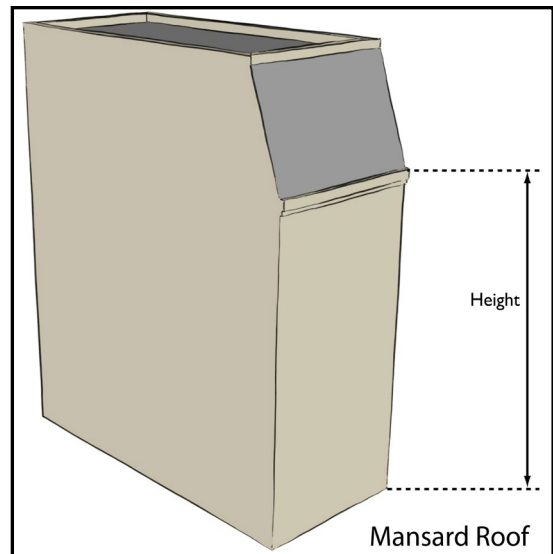
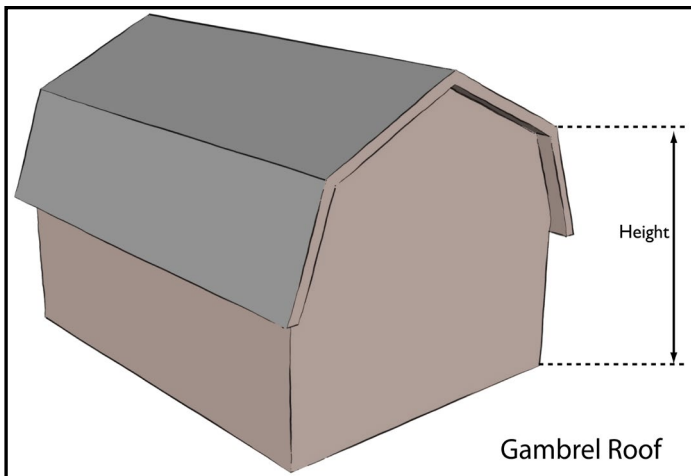
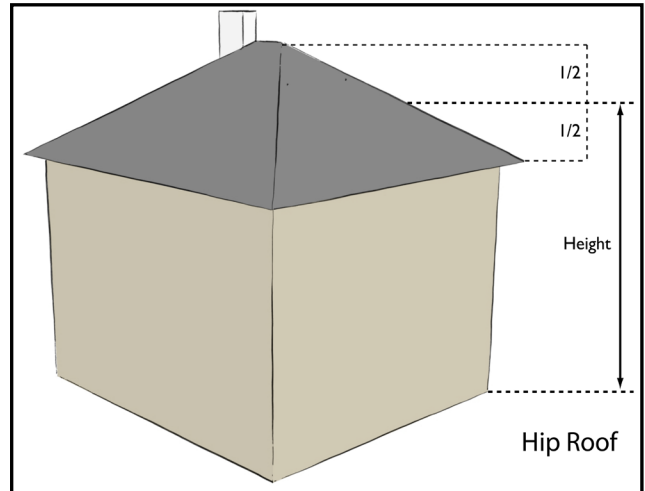
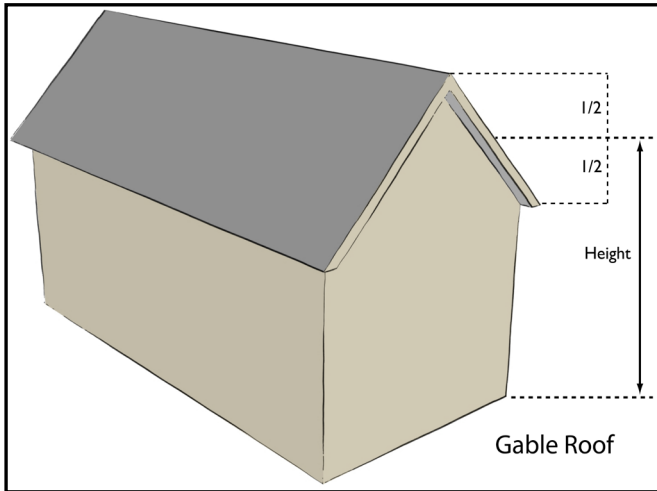
BUILDING

An independent structure, either temporary or permanent, having a roof or canopy supported by columns, poles, walls, or any other support used for the enclosure, protection, or storage of persons, animals, objects, vehicles, or chattels, or carrying on business activities or other uses. When any portion thereof is completely separated from every other part thereof by division of walls from the ground up, and without openings, each portion of the building shall be deemed a separate building.



BUILDING HEIGHT

The building height is the vertical distance measured from the natural grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the height shall be measured at the average grade. See graphics.



BUILDING, MAIN

A building in which is conducted the main use of the lot on which it is situated.

SECTION 2.04 DEFINITIONS – C

CANOPY TREE

A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purpose of a canopy tree is to provide shade to adjacent ground areas.

CARPORT

An open covered motor vehicle parking structure accessory to a main building. It may be free standing or attached to another structure.

CLEARING OF LAND

The removal of vegetation from any site, parcel or lot. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

CLINIC

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

CLUB

An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, hobbies, politics, or the like, but not operated for profit.

COMMERCIAL

This term relates to the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement.

COMMON AREA

That part of a condominium development in which all members have an ownership interest, including but not limited to streets, alleys, walkways and open space.

COMMERCIAL BOATING (See also Sec, 2-23 – MARINA)

Water front boat slips which provide for the servicing, storage, fueling, berthing, and securing of boats and may include eating, sleeping, and retail facilities intended primarily for the owners, crews and guests of boat owners using the boat slip; or any boat slip which offers service to the public or

members of the marina for docking, loading, servicing, or other activities related to recreational or commercial watercraft.

COMMERCIAL MINI STORAGE

A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual basis for varying periods of time.

COMMON AREA

The part of a condominium development in which all members have an ownership interest, including but not limited to streets, alleys, walkways and open space;

CONDOMINIUM ACT

Public Act 59 of the Michigan Public Acts of 1978, as amended.

CONDOMINIUM PROJECT, SITE

A division or development of land on the basis of condominium ownership in accordance with the Condominium Act, which is not subject to the provisions of the Land Division Act (P.A. 288 of 1967, as amended).

CONDOMINIUM UNIT

That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.

CONSERVATION EASEMENT

A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water.

CONVALESCENT OR NURSING HOME

A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. The convalescent or nursing home shall conform to, and qualify for, license under applicable State law.

COTTAGE INDUSTRY

An accessory use to a principal residence where the owner of the residence operates a small scale business as part of their lifestyle as a means of income. Uses may include, but are not limited to; small scale food

processing (without consumption) and artists or craftsmen producing unique items on site.

SECTION 2.05 DEFINITIONS – D

DANCE STUDIO

A facility designed, constructed or used for instructional, practice or production purposes in graphic and performing arts, including sculpture, painting, music, photography, drama, dance, yoga, and other similar endeavors.

DAY CARE

A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the main use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Day Care Center.

A. Day Care Home, Family

A single family residence, occupied as such in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.

B. Day Care Home, Group

A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

C. Day Care Center, Commercial

A non-residential facility where care is provided for any number of children or adults for periods of less than twenty-four (24) hours per day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the main use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Commercial Day Care.

DECK

An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which protrudes more than four (4) inches above the finished grade.

DEED RESTRICTION

A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the Muskegon County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

DENSITY

As applied in this Ordinance the number of dwelling units situated on or to be developed on a gross acre of land.

DISTRICT

A zoning district pursuant to this Ordinance.

DOCK

A long, narrow structure, extending out into a body of water and attached to the shore, where boats can be moored.

DRIVE-IN OR DRIVE-THROUGH FACILITIES

A commercial or other establishment whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle.

DRIVEWAY, PRIVATE

An improved or unimproved path or street extending from a public right-of-way or private street easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof.

DUMPSTER

An accessory use of a property where trash or recyclable materials or other type of waste or refuse is stored temporarily, having a capacity of at least one cubic yard.

DWELLING, OR DWELLING UNIT

A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

A. Dwelling, Multiple Family

A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in the building. This definition includes three (3) family buildings, four (4) family buildings, and apartment houses.

B. Dwelling, Two-Family

A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in the building. It may also be termed a duplex.

C. Dwelling, Single Family (Detached)

A detached building used or designed for use exclusively by one (1) family.

SECTION 2.06 DEFINITIONS – E

EASEMENT

A right, distinct from ownership of the land, to cross property with facilities such as, but not limited to, driveways, streets, utility corridors, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for open space, recreation, drainage or access purposes.

ELDERLY HOUSING (See also 2.11 – Convalescent or Nursing Home and 2.34 – State Licensed Residential Facility)

A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons fifty five (55) years of age or older or couples where either the husband or wife is fifty five (55) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of

Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

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.

ESSENTIAL PUBLIC SERVICES

The phrase "essential public services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessory structures reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions or for the public health or general welfare, but not including cellular telephone or communications towers or buildings, nor including those buildings that are primarily enclosures or shelters of the above essential service equipment.

EXCAVATING

Excavating shall be the removal, digging, or moving of soil or earth below the average grade of the surrounding land and/or street grade, whichever shall be highest, except common household gardening.

SECTION 2.07 DEFINITIONS – F

FAMILY

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FENCE

Any permanent barrier, partition, wall, structure or gate erected as a dividing structure, or enclosure, and not part of a structure requiring a building permit.

FILLING

The depositing or dumping of any matter onto or into the ground, except common household gardening and landscaping care.

FLOODPLAIN & RELATED TERMS

A. Base Flood

The flood having a one (1) percent chance of being equaled or exceeded in any given year.

B. Development

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings, or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

C. Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

D. Flood Hazard Area, Special

The land within a community subject to a one (1) percent or greater chance of flooding in any given year. Also known as "area of 100 year flood," and shown on the Flood Insurance Rate Map (FIRM) as "Zone A."

E. Flood Insurance Rate Map (FIRM)

An official map of a community, on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

F Flood Plain

Land designated as Special Flood Hazard Area.

G Floodway, Designated Regulatory

The channel of a stream or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.

H Harmful Increase

An unnaturally high stage on a river, stream or lake which causes or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

FLOOR AREA, GROSS (GFA) (as associated with commercial uses)

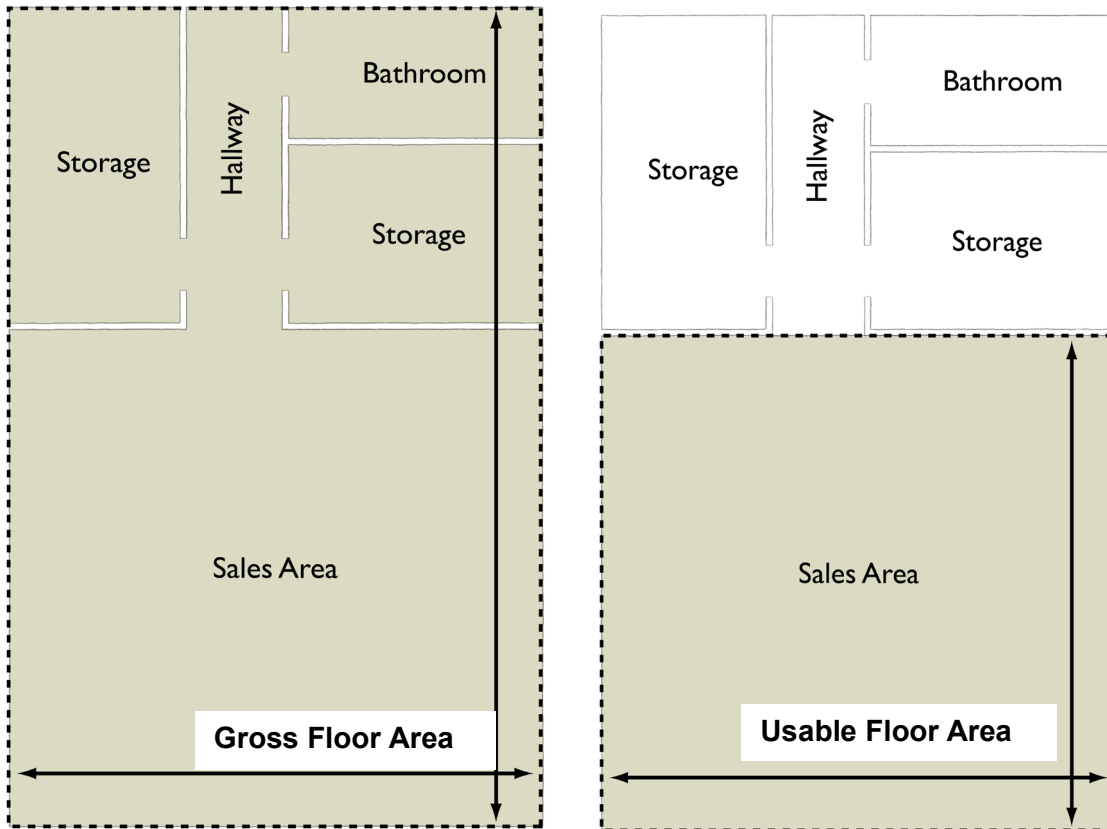
See graphics below.

- A. The sum of the gross horizontal area of several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half ($\frac{1}{2}$) of the basement height is above finish lot grade. (See Basement.)
- B. Gross floor area shall not include attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area.

FLOOR AREA, USABLE (UFA) (as associated with commercial uses)

See graphics below.

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. See graphics below.



FRONTAGE

Depending upon the context in this Ordinance, the portion of a lot abutting, adjoining, or having frontage on a body of water, or street. **(See also "Lot Width under Section 2.13 – DEFINITIONS)**

SECTION 2.08 DEFINITIONS - G

GARAGE

A building used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on which the building is located.

GREENBELT

A vegetative strip intended to provide physical separation and visual screening between potentially incompatible uses; be sufficient to screen or filter views of building walls, loading areas, parked vehicles, and outdoor storage areas; moderate harsh or unpleasant sounds; filter air pollutants; and/or slow the effects of storm water runoff.

SECTION 2.09 DEFINITIONS – H

HOME OCCUPATION

An occupation customarily conducted within a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single family detached residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care, including as an integral part of the institution, related facilities *such as* laboratories, out-patient departments, training facilities, central service facilities and staff offices.

HOTEL OR MOTEL

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

SECTION 2.10 DEFINITIONS – I

INOPERATIVE VEHICLES

Any motor vehicle which is currently not capable of being started and safely and properly operated on the highway.

SECTION 2.11 DEFINITIONS – J

JUNK

Any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; trash; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured.

JUNK YARD

Automobile wrecking yards and salvage areas and including any area of more than four hundred (400) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include lawful uses established entirely within enclosed buildings.

SECTION 2.12 DEFINITIONS – K

KENNEL

Any lot or premises on which four (4) or more dogs or cats, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or for sale.

SECTION 2.13 DEFINITIONS – L

LAND DIVISION ACT

Public Act 288 of the Michigan Public Acts of 1967, as amended.

LANDMARK TREE

A tree with a diameter of over twenty-eight (28) inches when measured at four feet off the ground.

LAWN

Ground cover consisting of grass or sod kept closely mowed, commonly used as a primary ground cover.

LIGHT MANUFACTURING

Manufacturing activities which are characterized as lower in intensity, cleaner, and generally more compatible when located adjacent to commercial areas that are heavy manufacturing uses. These activities are light industrial and other uses that will not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation and other nuisance characteristics. The operations can be conducted in such a manner as to control the external effects of the manufacturing process, such as odors, vibrations, emissions, or other nuisance characteristics through prevention or mitigation devices and conduct of operations within the confines of buildings.

LIVESTOCK

Those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, alpacas, bison, captive raptures, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs or cats.

LIVING SPACE (with respect to residential uses)

That part of a dwelling that is normally occupied including bedroom, kitchen, bathroom and gathering areas it excludes storage areas such as closets,

attics, basements and garages. In order for a basement to qualify as living space, it must be finished for living purposes and each qualifying room shall have a second form of egress under the building code.

LOADING SPACE

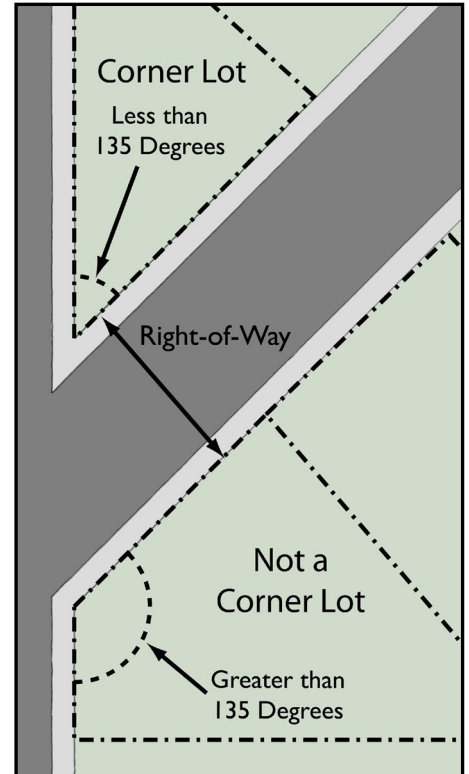
An off-street space on the same lot with a building or group of buildings for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT

A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include platted lot, plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use (often called a "unit" or "site condominium unit").

LOT AREA

The total horizontal area within the lot lines of a lot excluding a public street right-of-way and any private street easement or right-of-way.

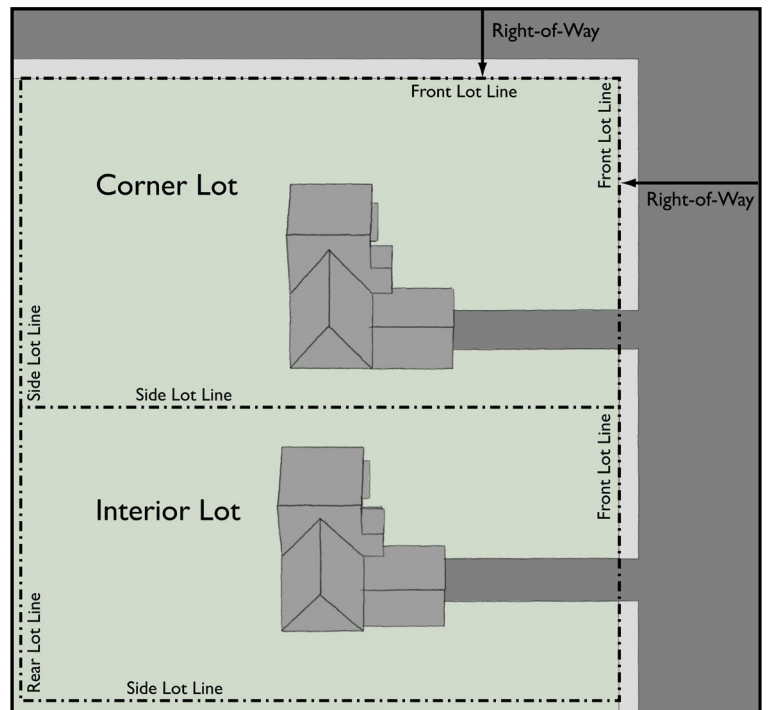


LOT, CORNER

A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less. See graphics.

LOT COVERAGE

The part or percent of the lot occupied by buildings or structures, including pavement, accessory buildings or structures.



LOT DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a through lot.

LOT, FLAG

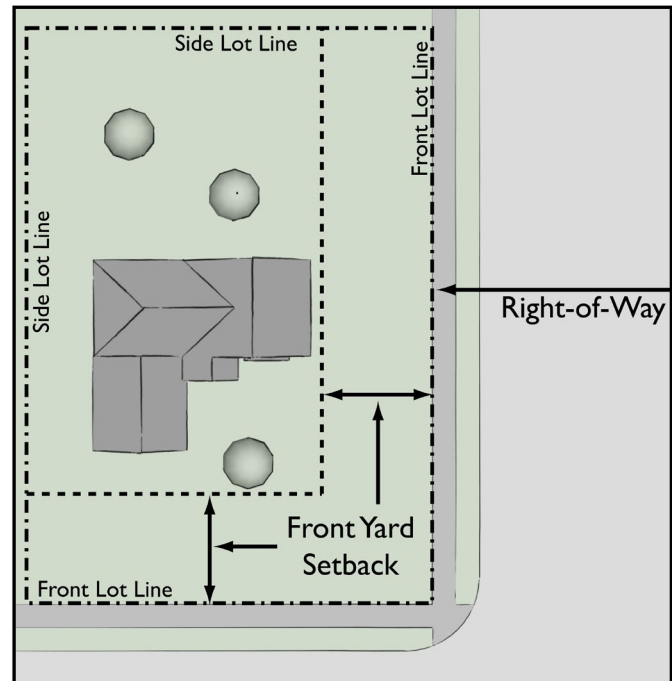
A lot whose access to the public street is by a narrow private right-of-way that is either a part of the lot or an easement across another property.

LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street. See graphic.

LOT - KEYHOLE

The use of a waterfront property, parcel or lot as common open space for waterfront access for more than one dwelling without water frontage for waterfront access or the use of waterfront property for waterfront access for a larger development located away from the waterfront.



LOT LINES

The property lines bounding the lot. See graphic.

- A. Front Lot Line. The line separating the lot from the abutting public or private street right-of-way. A corner or through lot shall have a front lot line abutting each adjacent public or private street right-of-way.
- B. Rear Lot Line. Ordinarily, a lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining the depth of a rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line. (See Double Frontage Lot).

- C. Side Lot Line. Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD

A lot which lawfully exists in a subdivision plat as shown on the records of the Muskegon County Register of Deeds, or a lawful lot or parcel described by metes and bounds, the description of which has been so recorded as required by law.

LOT, THROUGH

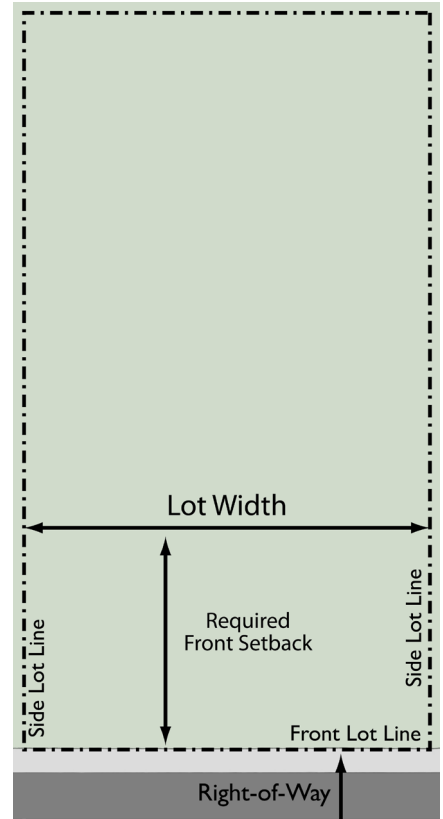
A lot other than a corner lot having frontage on two (2) more or less parallel streets. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where the structures presently front.

LOT, WATERFRONT

A lot having frontage directly upon a lake, river, or other naturally formed impoundment or stream of water.

LOT WIDTH

The horizontal distance between the side lot lines, measured as nearly as possible at right angles to the side lot lines. See graphic.



SECTION 2.14 DEFINITIONS – M

MAIN BUILDING

The building or structure in which the main use of the lot or parcel is located. Storage buildings, garages, and other accessory uses and structures shall not be considered main buildings.

MANUFACTURED HOME

A residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long-term occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected. A manufactured home is also commonly referred to as a mobile home or house trailer.

MANUFACTURED HOME PARK

A parcel or tract of land under the control of an individual, corporation, limited liability company, the state or any political subdivision thereof, agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity upon which three (3) or more manufactured homes are located on a continual, non recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

MANUFACTURED HOME SPACE

A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.

MARINA (See also 2.10 – Commercial Boating)

A facility located adjacent to a body of water and operated as a commercial enterprise for the sale, storage, or servicing of boats or other watercraft; or a dock or mooring located within a body of water and intended to be used by four (4) or more boats.

MASTER PLAN

The Master Plan as adopted by Village of Fruitport, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the Village, and includes any unit or part of the plan and any amendment to the plan.

MEDICAL MARIHUANA DISPENSARY

Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, grown, processed, delivered, consumed or distributed by or to one or more of the following:

- A. A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 et seq., as amended).
- B. A qualifying patient (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 et seq., as amended).

MUNICIPAL CIVIL INFRACTION

An act or omission that is prohibited by a provision of the ordinances of the Village of Fruitport for which the penalty has been designated as a Municipal Civil Infraction. A municipal civil infraction is not a crime and is punishable

by all of the civil remedies provided for in Act 12 of the Public Acts of 1994 as amended.

SECTION 2.15 DEFINITIONS – N

NATURAL FEATURE

Including but not limited to soils, wetlands, woodlots, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

NATURAL VEGETATIVE COVER

Significant natural vegetation, including bushes, shrubs, groundcover, and trees on a lot or parcel. A groomed lawn shall not qualify as natural vegetative cover.

NON-CONFORMING BUILDING

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance or the District in which it is located.

NON-CONFORMING LOT OF RECORD

A platted lot that conformed with all Village zoning requirements at the time of recording of the plat, which no longer conforms to the zoning regulations and requirements for lot area or dimension, lot width, or both; or a lot outside a recorded plat that conformed with all Village zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, which no longer conforms with the zoning requirements for lot area or dimension, lot width, or both.

NON-CONFORMING USE

A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, and that does not conform to the use regulations of the District in which it is located.

NUISANCE

An offensive, annoying, unpleasant, or obnoxious thing or practice being a cause or source of annoyance.

- A. Nuisance Factors: An offensive, annoying, unpleasant or obnoxious activity or practice; a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics or activity or use across a property line which can be perceived by or affects a human being. The generation of an

excessive or concentrated movement of people or things, such as , but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibrations; shock waves; heat; electronic or atomic radiation; objectionable effluent; noise of congregation of people, especially at night; passenger traffic; and invasion of non-abutting street frontage of traffic.

SECTION 2.16 DEFINITIONS – O

OPEN SPACE

Undeveloped land not part of any required yard which is set aside in a natural state.

OPEN SPACE, USABLE

That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation.

OPEN AIR BUSINESS

Uses operated for profit substantially in the open air, including, but not limited to:

- A. Utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, swimming pools, and similar activities but not including farm implements or commercial construction equipment.
- C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment, but not including lumberyards.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, , miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

ORDINARY HIGHWATER MARK

The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where the water levels vary for purposes of water level management, the ordinary highwater mark shall be the higher of the levels generally present.

OUTDOOR FURNACE

- A. Any device, appliance, and equipment apparatus or structure designed for heating a structure that:
- B. Is designed, intended and/or used to provide heat and/or hot water to any associated structure.
- C. Operates by burning wood or any other solid fuel including but not limited to: coal, paper pellets, and agricultural products.
- D. Is not located within the structure to be heated.
- E. Includes, but is not limited to, devices referred to as outdoor furnaces, outdoor boilers, and outdoor stoves.

OUTDOOR STORAGE

The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than seven (7) days.

OVERLAY ZONE

An additional set of regulations which apply in conjunction with those in the underlying zoning district.

SECTION 2.17 DEFINITIONS – P

PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

PARKING SPACE

An off-street space of at least nine by eighteen feet in area (9x18) exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed primarily on the premises including but not limited to salons, barber shops and tanning facilities.

PERFORMANCE GUARANTEE

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

PLANNED UNIT DEVELOPMENT (PUD)

The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group.

PLANNING COMMISSION

The Village of Fruitport Planning Commission.

PORCH, ENCLOSED

A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PORCH, OPEN

A covered entrance to a building or structure which is unenclosed except for columns, posts or poles supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PRINCIPAL USE

The primary use of land or structures, as distinguished from accessory uses.

SECTION 2.18 DEFINITIONS – Q (RESERVED)

SECTION 2.19 DEFINITIONS – R

RECREATION VEHICLE OR EQUIPMENT

A vehicle or equipment used for recreational or leisure pursuits. Such vehicles shall include boats, special purpose automobiles, floats, rafts, motorcycles, ATVs, UTVs, 4-wheelers, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

RELIGIOUS INSTITUTION

A building where persons regularly assemble for religious worship that is maintained and controlled by a religious body organized to sustain public worship.

RESTAURANT

A building in which food is prepared and sold for consumption within the building, as opposed to a drive-through restaurant where food may be taken outside of the building for consumption either on or off the premises.

RIGHT OF WAY

A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, sidewalk, crosswalk, railroad, electric transmission lines, oil or gas line, water line, sanitary storm sewer and other similar uses.

ROAD COMMISSION

The Muskegon County Road Commission.

RUBBISH

Any solid waste, except human excreta, but including garbage, refuse, ashes, street cleanings, dead animals, offal and solid agricultural, commercial, industrial, hazardous and institutional wastes and construction waste resulting from the operation of a contractor.

SECTION 2.20 DEFINITIONS – S

SALVAGE YARD – See “Junk Yard”.

SCREEN

A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials.

SETBACK

The minimum required horizontal distance from a structure or a building measured from the front, side, or rear lot line, as the case may be, which describes an area termed the required setback area or yard on a lot or parcel.

A. *Front Setback*

The line marking the setback distance from the front right-of-way line to the foundation of the building, which establishes the minimum front yard setback area. In the case of waterfront lots, the front setback shall be from the ordinary highwater mark.

B. *Rear Setback*

The line marking the setback distance from the rear lot line to the foundation of the building, which establishes the minimum rear yard setback area.

C. *Side Setback*

The lines marking the setback distance from the side lot lines, to the drip line, which establish the minimum side yard setback area.

SHORELINE

See "Ordinary Highwater Mark".

SIGNIFICANT NATURAL FEATURE

Any natural area as designated by the Planning Commission, Village Council, or the Michigan Department of Natural Resources and Environment, or other appropriate governmental agency, which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

SIGNS (Definitions relating to):

A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity. See graphic following.

- A. **Awning:** A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that project from the exterior wall of a building.
- B. **Billboard:** Any structure, on which lettered, figured, or pictorial matter is displayed for advertising either:
 - 1. A business, service, entertainment, activity or event which is not conducted on the land upon which the structure is located;
 - 2. A product which is not primarily sold, manufactured, processed or fabricated on the land upon which the structure is located;

3. A second structure which is not located on the land upon which the first structure is located;
 4. A geographical location or place which is not located on the land upon which the structure is located; or a person, however any structure which meets the definition of a directional sign shall not be considered to be a billboard.
- C. Business Center Sign: A freestanding or ground sign identifying the name of a business center and/or one (1) or more individual businesses within the center.
 - D. Balloon sign: A sign composed of a non-porous bag of material filled with air.
 - E. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
 - F. Construction sign: A sign which identifies the owners, financiers, contractors, architects, and/or engineers of a project under construction.
 - G. Directional sign: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs. A directional sign is any structure erected adjacent to a street which identifies, points toward and gives the distance to any public or semi-public building, off-street parking area, recreation space, club, lodge, church, institution, business, service, entertainment, activity or event.
 - H. Freestanding sign: A sign supported on poles not attached to a building or wall.
 - I. Government sign: A temporary or permanent sign erected by the Village, Muskegon County, or the state or federal government.
 - J. Ground sign: A sign resting directly on the ground supported by a foundation, not attached to a building or wall. Any sign other than a pole sign, in which the entire bottom is in contact with or close to the ground and is independent of any other structure and which is up to six (6) feet in height.

1. The height of a freestanding sign shall be measured from the average finished grade surrounding its point of attachment to the top of the highest element or point on the supporting pole or structure, whichever is higher.

2. Determination of the average finished grade shall exclude any mounding immediately surrounding the point of attachment. The height of a wall sign shall be measured from the grade defined for the

building to which it is attached, as per Zoning Ordinance to the top of the highest element.

3. A sign with two (2) faces shall have the display surfaces arranged back to back and essentially parallel with each other.

- K. Off-premise sign: A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced or manufactured or furnished at the property on which the sign is located.
- L. On-premise sign: A sign which pertains solely to the use of the property on which it is located, such as to an establishment, product, merchandise, good, service or entertainment which is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
- M. Permanent Sign: Any sign which, when installed, is intended for permanent use. A permanent freestanding sign shall be of a type and construction as not to be easily or readily removed from the lot on which it has been erected.
- N. Political sign: A temporary sign used in connection with a noncommercial message or an official Village, school district, county, state, or federal election or referendum.
- O. Portable sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
- P. Projecting sign: A double-faced sign attached to a building or wall that extends more than eighteen (18) inches but not more than thirty-six (36) inches from the face of the building or wall.
- Q. Roof line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- R. Real estate sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- S. Roof sign: A sign erected above the roof line or top parapet of a building. A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or deck line of a building with a mansard roof.
- T. Temporary sign: A sign not permanently attached to the ground, a structure, or a building. Temporary signs may include banners, portable signs, and any other signs displayed for a limited period of time.

- U. Wall sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than eighteen (18) inches from the exterior face of the wall to which it is attached.
- V. Window sign: A sign installed inside a window and intended to be viewed from the outside.



SITE PLAN

The documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

SPECIAL LAND USE

A use that, due to some characteristics of its operation, such as traffic, noise, odor, glare, or hours of operation, may be permitted in a district subject to special requirements different from those generally applicable to permitted uses within the zoning district in which the special use is located.

STACKING SPACE

An area designated for a line of vehicles waiting for drive-through service.

STATE LICENSED RESIDENTIAL FACILITY

A residential care facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care, but does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to correctional institutions.

- A. A State Licensed Residential *Family* Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.
- B. A State Licensed Residential *Group* Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

- 1. *ADULT FOSTER CARE FACILITY*

A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), as amended, having as its principal function the receiving of adults for foster care. Such facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.

- 2. *ADULT FOSTER CARE FAMILY HOME*

A private residence in which the licensee is a member of the household and an occupant, providing foster care for five (5) or more days a week and for two (2) or more consecutive weeks with the approved capacity to receive six (6) or fewer adults.

3. *ADULT FOSTER CARE LARGE GROUP HOME*

An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

4. *ADULT FOSTER CARE SMALL GROUP HOME*

An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.

5. *FOSTER FAMILY GROUP HOME*

A private residence in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

6. *FOSTER FAMILY HOME*

A private residence in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

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.

STORAGE

A. Storage, Motor Vehicle: The standing or placement of operable new or used motor vehicle on display for sale, lease, or for private storage.

B. Storage outside: The outdoor standing or placement of usable and/or potentially usable goods or equipment other than for display and not including waste or scrap materials, other than in junk yards.

STORY

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for business purposes.

STORY, HALF

That part of a building between a pitched roof and the uppermost full story having a floor area which does not exceed one-half ($\frac{1}{2}$) the floor area of the full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven (7) feet, at its highest point.

STREET

A. Private Street

A private street shall mean any undedicated path, trail, or street which is not a dedicated public right-of-way, and which provides or has the potential for providing access to two (2) or more existing parcels and/or two (2) or more principal buildings, dwelling units, or other structures whether created by a private right-of-way, agreement, license, joint ownership, easement or prescription. Any and all extensions, additions, or branches of or to a private street shall be considered part of the primary private street which abuts the public street.

B. Public Street

A public thoroughfare located within a public street right-of way which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, drive, court, highway, street, street, and other thoroughfare; except an alley.

STRUCTURE

Anything constructed, installed, or erected, the use of which requires location on the ground or attachment to something on the ground.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the

purposes of this Ordinance, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 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 any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

SECTION 2.21 DEFINITIONS – T

TEMPORARY BUILDING OR USE

A structure or use permitted by the Building Services or designated inspection service to exist during periods of construction of the main building or for special events.

TEMPORARY EVENT

A use, activity, or event which is normally not allowed within a District, but may be permitted under certain circumstances pursuant to a temporary event permit issued under this Ordinance.

TOWNHOUSE

A row of three or more attached one-family dwellings, in which each dwelling has its own front entrance and rear entrance.

SECTION 2.22 DEFINITIONS – U – (RESERVED)

SECTION 2.23 DEFINITIONS – V

VARIANCE

A variation or modification of this Ordinance granted by the Zoning Board of Appeals relating to the construction, structural changes in, or alteration of buildings or structures or the use of land, buildings, or structures, where there is a practical difficulty for dimensional variances or an unnecessary hardship for use variances, in the way of carrying out the strict letter of this Ordinance.

VEHICLE REPAIR

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

VEHICLE SERVICE STATION

A building designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of the commodities on or in the vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Chapter.

VEHICLE WASH ESTABLISHMENT

A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

VETERINARY CLINIC

Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

VIEW SHED

A visually attractive or esthetic or significant area, such as Pomona Park Waterfront or Grand River that is visible from a defined observation.

VILLAGE

Village of Fruitport, Muskegon County, Michigan.

VILLAGE ATTORNEY

The person or firm appointed by the Village Council as the attorney for Village of Fruitport.

VILLAGE COUNCIL

The Village of Fruitport elected Council.

VILLAGE BUILDING INSPECTOR

The person or agency appointed by the Village Council as the Building Inspector for Village of Fruitport.

VILLAGE ENGINEER

The person or firm appointed by the Village Council as the Engineer for Village of Fruitport.

VILLAGE PLANNER

The person or firm appointed by the Village Council as the Planner for Village of Fruitport.

SECTION 2.24 DEFINITIONS – W

WETLAND

Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life. Wetlands are regulated by Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

WIRELESS TELECOMMUNICATION SERVICES

Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

WIND ENERGY CONVERSION SYSTEM (WECS)

A surface area, either variable or fixed, for utilizing the wind for electrical powers; and a shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted or any building or accessory equipment.

WECS Tower Height: The distance between the ground and the highest point of the WECS.

SECTION 2.25 DEFINITIONS – X (RESERVED)

SECTION 2.26 DEFINITIONS – Y

YARD

A yard is an open space on the same land with a structure, building, or group of buildings, which open space lies between the structure, foundation of the building, or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. See graphic.

A. *Front yard*

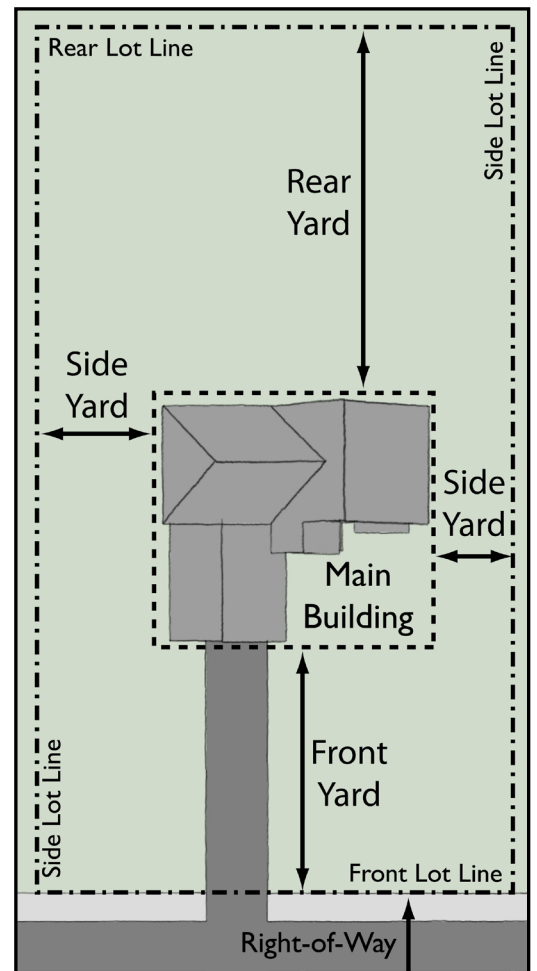
An open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line. For lots with frontage on a body of water, the front yard is at the water.

B. *Rear yard*

An open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.

C. *Side yard*

An open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.



SECTION 2.27 DEFINITIONS – Z

ZONING ACT

The Michigan Zoning Enabling Act, Act 110 of 2006 of the Public Acts of Michigan, as amended.

ZONING ADMINISTRATOR

The person designated by the Village Council to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of Village of Fruitport, sometimes also abbreviated in this Ordinance as the "Zoning Board of Appeals."

ZONING COMPLIANCE PERMIT

Also referred to as a "zoning permit. Before a use is commenced or a building or structure is constructed or expanded in this Ordinance it must be approved by the Zoning Administer or Planning Commission.

ZERO LOT LINE

The location of a building on a lot in such a manner that one or more of the buildings sides rests directly on a lot line, separated only by fire walls.

**CHAPTER 3
GENERAL PROVISIONS**

SECTION 3.01 CHAPTER APPLICABILITY

Unless otherwise specified, the provisions of this Chapter apply to all zoning districts within the Village.

SECTION 3.02 APPLICATION OF ZONING

- A. All buildings, structures or land may be used, constructed, altered or occupied, only when in conformity with all of the regulations specified in this Ordinance for the district in which it is located in accordance with the procedures of this Ordinance.
- B. Except as otherwise permitted by this Ordinance, after the effective date of this Ordinance no building or other structure shall be altered:
 - 1. To accommodate or house a greater number of persons or families than permitted by the Zoning District.
 - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted by the Zoning District.
- C. Any land use not specifically permitted is prohibited. When a use or activity is not stated in this Ordinance, the Zoning Administrator shall request an interpretation by the Zoning Board of Appeals to make a determination on the classification of the use. The Zoning Board of Appeals shall forward the classification to the Planning Commission to amend the ordinance, as appropriate, to address the use if deemed appropriate. An applicant may also petition the Village for an amendment to the Zoning Ordinance to address the use or activity being considered.

SECTION 3.03 GRADING, EXCAVATION, FILING, CREATION OF PONDS AND CLEARING OF TREES

Clearing vegetation and trees from a vacant site of over one-quarter(1/4) acre or grading, excavation, filling, soil removal and the creation of ponds involving more than twenty-five (25) cubic yards of soil may be permitted only after review and approval. The approval may be in the form of a zoning compliance permit issued by the zoning administrator (in the case of a single-family use) or through the site plan approval process with the Planning Commission.

SECTION 3.04 FRONTAGE REQUIRED ON A STREET

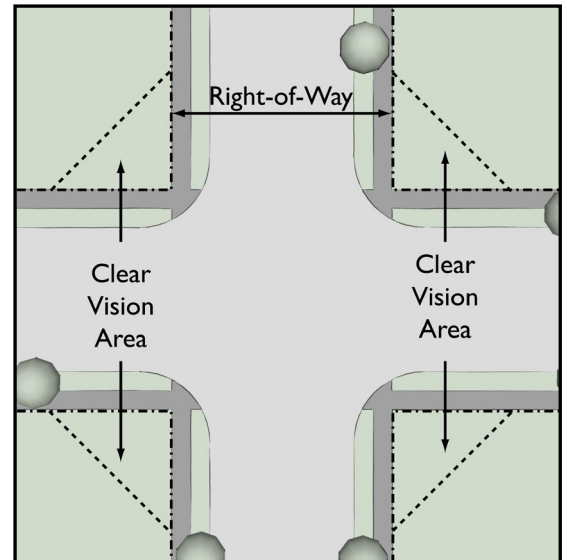
- A. Every main building or structure hereafter erected or moved shall have continuous minimum frontage equal to the required lot width of the zoning district on either a public street or an approved private street. All structures shall be located on lots to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- B. For a lot abutting the end turnaround area of a cul-de-sac, the minimum street frontage will be 30 feet, provided the lot width meets the minimum requirements of the zoning district at the front setback line.

SECTION 3.05 MAIN BUILDING OR PRINCIPAL USE

Each parcel shall contain only one (1) main building or principal use, except for groups of related commercial or office buildings, and multiple family dwellings contained within a single, integrated complex as demonstrated by shared parking, signs, access, and other similar features which, in the opinion of the Planning Commission, form a unified function and appearance.

SECTION 3.06 CLEAR VISION AT INTERSECTIONS

No solid fence, wall or planting screen between thirty (30) inches and eight (8) feet in height as measured from grade, shall be located within a clear vision triangle. This triangle is formed by the intersection of the street right-of-way lines. The clear vision triangle shall be line fifteen (15) on local streets and twenty five (25) feet on major streets. See graphic.



SECTION 3.07 HEIGHT EXCEPTIONS

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae (up to 30 feet high), water tanks, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level of a structure.

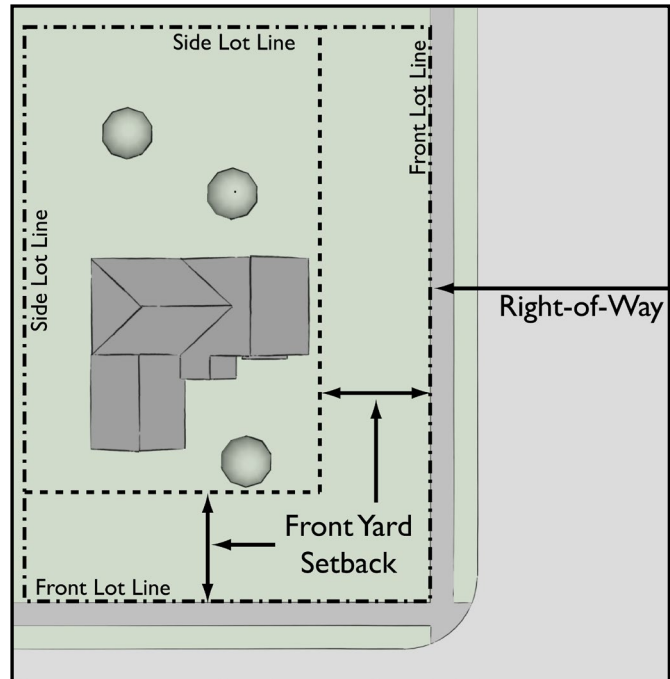
SECTION 3.08 LOTS AND SETBACK MEASUREMENT

- A. All newly created lots shall have sufficient buildable area to meet required setbacks and minimum lot size requirements of this Ordinance.

- B. Front setbacks shall be measured from the street right-of-way line to the foundation of building.
- C. Rear setbacks shall be measured from the lot line to the foundation of the building.
- D. Side yard setbacks shall be measured from the drip line of the building.
- E. 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.

F. Corner Lots (See graphic)

- 1. Each lot line abutting a public or private street shall be a front lot line, and the required setback along both lot frontages shall be a required front yard. The two (2) remaining yards shall each be side yards.
- 2. For a corner lot with three (3) front lot lines, the remaining lot line shall be a rear lot line.

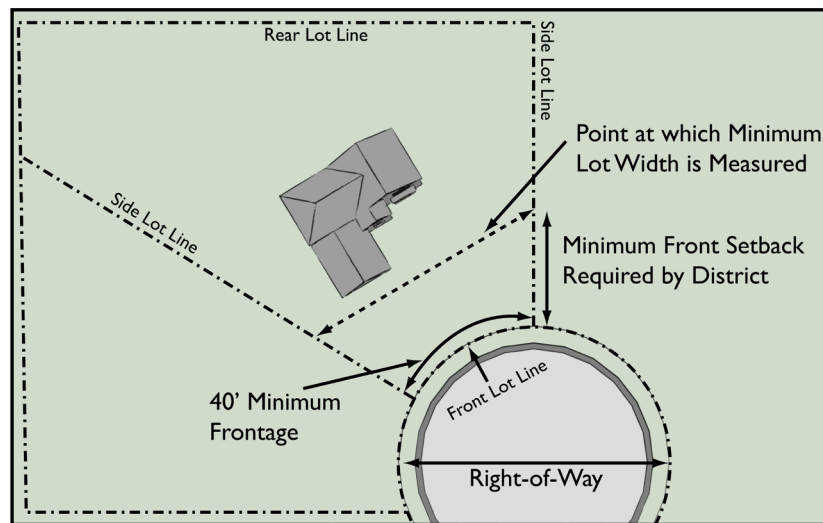


G. Average Setbacks

- 1. Except for Third Street, in Districts where main buildings have nonconforming front setbacks, the required front setback for a new structure may align with (or provide the average setback of) existing main buildings within three (3) lots of the lot where the front yard setbacks are:
 - a. Less than the required front yard setback for the zoning district.
 - b. On the same side of the street and either side of the subject parcel.
 - c. In the same zoning district as the subject parcel.

H. Cul-de-Sac Lots

1. Cul-de-sacs are generally discouraged unless topography or other significant site limitations necessitate their use. Cul-de-sacs shall meet the minimum design standards of the Village.
2. A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
3. Minimum frontage for a cul-de-sac lot is forty (40) feet at the setback line. See graphic.



SECTION 3.09 PROJECTIONS INTO YARDS

- A. Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be permitted to encroach upon the minimum setback requirements of this Ordinance, provided the projection into a required front yard area is no closer than five (5) feet from a street right-of-way line or rear lot line. No encroachment shall be permitted into the side setback of the lot.
- B. Unenclosed terraces, patios, porches, and decks shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance provided they are:
 1. Attached to the main building.
 2. Not covered with a roof.

3. Elevated no more than thirty (30) inches above the average surrounding final grade.
 4. Located no closer than ten (10) feet from a street right-of-way line.
 5. Do not encroach into the side setback of the lot.
- C. Those structures covered in paragraphs A and B above shall not be considered nonconforming, and therefore, shall be permitted to be rebuilt even if destroyed by an act of God or by the owner/occupant of the structure.

SECTION 3.10 ACCESSORY BUILDINGS AND USES

A. General Requirements

1. Accessory buildings and structures that are customarily incidental and subordinate to an existing main building that are located on the same lot as the main use shall be permitted subject to the regulations of this Section.
2. No accessory building shall be permitted on any lot which does not contain a main building.
3. In Residential Districts, existing nonconforming accessory structures may be replaced on the existing footprint provided they are wholly contained within the property, meet the required front yard setback, design requirements, and do not inhibit emergency access.
4. Attached accessory buildings and structures shall be made structurally part of the main building and shall conform to the district setback requirements of the main building.
5. Attached accessory buildings and structures shall not exceed the square footage of the largest story designed and used for living purposes in the residential dwelling, up to a maximum of one thousand five hundred (1,500) square feet.
6. Detached accessory buildings and structures shall be a minimum of ten (10) feet from another building or structure (unless properly fire suppressed) or three (3) feet from any rear or side property line.
7. Accessory building(s) shall not be erected in any required front yard or waterfront setback.

8. No accessory building, attached or detached, shall be used in any part for residential dwelling or sleeping purposes. This includes pole buildings as defined and prohibited for use as residential dwellings by Section 2.17 and Section 3.17.
9. Any accessory building with an area greater than one hundred twenty (120) square feet shall be permanently constructed on a concrete foundation and shall conform to all applicable building and other similar codes. The architectural character shall be compatible with, and similar to, the main building with respect to materials, scale, design, and aesthetic quality as determined by the Zoning Administrator.
10. Sheet metal siding on accessory structures is prohibited on lots or parcels of less than twenty (20) acres.
11. Tarped accessory structures are prohibited.
12. No accessory building shall occupy any portion of a required greenbelt or buffer in any district.
13. Freestanding solar panels shall be considered an accessory structure and shall meet all front, side, and rear yard requirements specified for accessory structures.

B. Detached Accessory Buildings and Structures - Residential Districts or Uses.

1. The square footage of an accessory structures shall not exceed the following area or height limitations:

Lot Size	Maximum Square Footage	Maximum Height (ft)
Less than 12,000 sq. ft.	600	14
12,000 sq. ft. to 1.01 acres	960	18
1.01 acres to 3 acres	1,500	24
3 acres and above	2,400	24

2. One (1) additional detached storage shed shall be permitted for a Residential District or use not to exceed one hundred and twenty (120) square feet in area.

- 3 A swimming pool shall also be permitted on a lot, subject to the requirements of the Building Code, and:
 - a. Pools are not permitted in any required setback.
 - b. A four (4) foot enclosure shall be provided around the pool to prevent entry of children.
 - c. May not be located under overhead wires.
- 4 Amateur radio communication towers not exceeding 75 feet in height (wholly owned and used by a federally licensed amateur radio station operator) are permitted as an accessory use to the operator's dwelling.
- 5 Docks are additionally permitted structures on waterfront property, and are the only structures permitted in the waterfront setback provided they are used solely by the occupants of the residence and;
 - a. Boat docks and boat slips shall be used only by persons residing on the premises or their guests, and shall not be leased, rented or otherwise used for compensation except in conjunction with the lease or rental of the dwelling unit on the same lot, unless approved as a private or public marina as a special use.
 - b. Private boat docks on waterfront lots shall comply with all applicable state and local regulations and shall only be permitted subject to the following provisions:
 - (1) One (1) private boat dock shall be permitted for each waterfront lot or parcel. For lots exceeding fifty (50) feet in width, one (1) additional boat dock shall be permitted for each full fifty (50) feet of lot width exceeding the first fifty (50) feet along the lake or other body of water.
 - (2) Dock design, including length, shall not interfere with navigation or other riparian rights of waterfront owners.

(3) Boat docks and boat slips shall be used only by persons residing on the premises or their guests, or by patrons of the premises, and shall not be leased, rented, or otherwise made available for compensation, unless approved as a marina, subject to the requirements of this Ordinance and other state and federal regulations.

(4) Such boat docks and slips may be permitted on any lot regardless of whether a main building or principal use exists on such lot.

(5) A permit for such dock/s/ shall be reviewed and issued by the Village of Fruitport Council prior to construction. Fees for such permits shall be as established by the Village Council.

- c. Shall be limited to not more than (1) dock per lot or per dwelling unit.
- d. Only two (2) slips shall be permitted per dock.

SECTION 3.11 FENCES

A. General Requirements:

1. All fences erected by individual property owners must be located on his/her property. Fences may be on the property line, however, the Zoning Administrator may require a survey if a property line is in dispute.
2. No electrically charged fences are permitted.
3. Fence height shall be measured from the existing natural grade.
4. No person shall place, string or maintain barbed wire as part of any fence, other work or structure in any zoning district.
5. No fence or wall shall be erected which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department.
6. It is unlawful to construct any private fence or barrier within a public right-of-way.
7. Fences are not permitted within twenty- five (25) feet of the ordinary highwater mark.

8. All fences shall be maintained in a manner to prevent rust, corrosion and deterioration so as not to become a public or private nuisance, blighting influence or danger to adjoining property owners and the public.
9. It shall be unlawful to erect a fence of objectionable appearance, consisting of or constructed of highway construction material, guard rails, guard rail posts, tension fencing, tires, vehicle or motor vehicle component parts, tree stumps, rotting lumber or any material capable of providing habitat or harborage for pests or vermin.
10. Fences constructed of wood or other material having one (1) side designed and considered the decorative side shall be erected with that side facing the adjoining street or abutting property owner's premises.

B. Residential Districts

1. Fencing which is essentially open (e.g., wrought iron, chain link, split rail, or picket fence) may be up to forty-eight (48) inches in height in the front yard.
2. Stockade fence and masonry walls shall be limited to three (3) feet in height in the front yard.
3. Fences may be up to six (6) feet in height behind the front building line.

C. Business and Industrial Districts

1. A wall, fence or yard enclosure may be up to eight (8) feet in height behind the required front setback line.

- D. All Parks, Recreational and essential service fences greater than six (6) feet are subject to Special Use.

SECTION 3.12 NONCOMMERCIAL WIND ENERGY CONVERSION SYSTEMS

Noncommercial Wind Energy Conversion Systems are permitted in any zoning district with a zoning permit, provided:

- A. Units which are not mounted to a building that need a tower or monopole shall be setback from property lines a minimum distance equal to their height.

- B. Units affixed to a structure shall not extend more than twenty (20) feet above the roof line of the structure it is mounted to.
- C. The maximum height of a free-standing unit shall be eighty (80) feet, as measured from the ground at its base to the tip of the rotor blade in the upright position.
- D. The unit shall meet all building code requirements for such factors as wind load and snow load. Units shall be "UL" listed and a copy of the manufacturer's installation instructions in addition to the structural specifications for the unit and all supporting structures shall be provided to the Village. Plans may be required to be sealed by a structural engineer.
- E. Noise emanating from the operation of the unit shall not exceed fifty five (55) decibels as measured on the DBA scale, measured at the nearest property line.
- F. The unit shall be equipped with both a manual and automatic braking device capable of stopping its operation in high winds, as established by the manufacturer.
- G. The unit shall not have affixed or attached to them any lights, reflectors, signs, flashers or any other illumination.
- H. Any unit that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

SECTION 3.13 WOOD FURNACE OR OUTDOOR WOOD STOVE

Due to the nuisance smoke and concerns regarding the public safety and welfare of residents living in relatively close proximity to one another, outdoor wood furnaces are prohibited in all zoning districts within the Village of Fruitport.

SECTION 3.14 STORAGE OF FIRE WOOD

Firewood, not exceeding five (5) cords (one cord being hundred twenty-eight (128) cubic feet), or six (6) feet in height, may be neatly stored in any residential lot for the personal use of the owner or tenant. Firewood shall be stored no less than four (4) feet from any building.

SECTION 3.15 ACCUMULATION OF WASTE

The accumulation of waste, junk, rubbish, garbage, refuse, trash; abandoned, discarded or unused objects, machinery or equipment such as

furniture, stoves, refrigerators, freezers, cans or containers; or other deleterious substance on the premises of private residences or properties, commercial institutions, and in the roadway creates blight and greatly increases danger of fire, and spread of infections and diseases and is expressly prohibited by this Ordinance.

SECTION 3.16 HOME OCCUPATIONS

- A. Only members of the family residing in the home shall be engaged in connection with the home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area or five hundred (500) square feet of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or depart from the residential character of the dwelling.
- D. There shall be no sale of products or services except as are produced on the premises or those products which may be directly related to and incidental to the home occupation.
- E. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.
- F. The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- G. Any parking for vehicles associated with the home occupation shall be provided off the street. No commercial vehicles exceeding a rated capacity of one (1) ton may be parked on the premises.
- H. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. 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 the line voltage off the premises.

SECTION 3.17 REGULATIONS APPLICABLE TO SINGLE FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS

Any one-family dwelling, whether constructed and erected on a lot, or a manufactured home outside a manufactured home park, may be permitted only if it complies with all of the following requirements:

- A. The dwelling shall meet the minimum square footage requirements for the District in which it is located.
- B. Design Features:
 - 1. The minimum width across any front, side, or rear architectural elevation shall be at least twenty four (24) continuous feet of exterior wall.
 - 2. Dwellings shall have a minimum roof pitch of four (4) inches to one (1) foot of rise.
 - 3. All dwellings shall have 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.
 - 4. Where elevation differences make it necessary, the dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas.
 - 5. The dwelling shall not contain additions or rooms or other areas that are not constructed with similar quality work as the original structure, including permanent attachment to the main building and construction of a foundation as required by the adopted Construction Code of the Village.
 - 6. The dwelling unit shall have at least two (2) exterior doors, with one (1) being in either the rear or the side of the dwelling unit.
 - 7. The dwelling shall conform to the State Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where the standards allow standards of construction which are less stringent than those imposed by the Building Code, then the less stringent Federal or State standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- C. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured 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 the standards may be amended.

- D. The dwelling shall be placed upon and secured to a permanent foundation meeting the requirements of the State Building Code. The area between the elevation of the lot and the structure shall have a wall of the same dimensions of the dwelling and constructed of materials and type as required in the applicable code for one-family dwellings. In the event that the dwelling is installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
- E. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- F. The requirements of this Section shall not be construed to prohibit innovative design concepts involving matters such as solar energy, view, unique land contour, or relief from the common or standard designed home.
- G. All dwellings shall meet the minimum square footage of living space as specified in the district.

SECTION 3.18 TEMPORARY USES AND BUILDINGS

Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by a permit issued by the Zoning Administrator.

- A. Construction buildings and structures, including trailers, incidental to construction work on a lot, provided:
 - 1. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.
 - 2. Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Zoning Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on the lot.

- B. Sales offices or model homes may be placed on a lot provided:
1. The location of the office shall be specified in the permit.
 2. The permit shall be valid for a period of up to one (1) year. A temporary permit may be renewed by the Zoning Administrator for up to two (2) successive one (1) year periods or less, at the same location if the office is still incidental and necessary.
 3. Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be permitted.
- C. The temporary sale of merchandise in commercial districts related to a seasonal or periodic civic event, such as a festival. Seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities.
- D. All temporary uses shall meet the following standards:
1. The nature of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
 2. The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
 3. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
 4. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
 5. Signs shall conform to the provisions of this Ordinance.
 6. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

SECTION 3.19 STORAGE OF RECREATIONAL VEHICLES

Recreational vehicles shall not be parked or stored in the required front yard of any lot in a residential district except on an improved driveway.

Recreational vehicles may be stored in the rear yard. Such equipment may also be occupied for up to seven (7) days in a ninety (90) day period.

- A. Storage in a residential district shall be permitted only when it is accessory to the principal use of the parcel or adjacent parcel when owned by the same person.
- B. No storage shall be permitted closer than five (5) feet to any dwelling unit, nor closer than three (3) feet to any side lot line.
- C. The open storage of disassembled or component parts for any vehicle of any type shall be deemed a nuisance in accord with the Village of Fruitport Nuisance Ordinance and shall be prohibited at all times.
- D. Any recreational vehicle, camper or boat stored out of doors shall be licensed to the property owner of the residence.
- E. No recreational vehicle, camper or boat and trailer shall be parked or stored on any roadway or right-of-way.
- F. No person shall use or permit the use of any temporary dwelling, camper, recreational vehicle or trailer as a principal or seasonal or short term dwelling on any site, lot, field, parcel or tract of land, except as part of a campground licensed by the Michigan Department of Public Health and/or County Department of Health.

SECTION 3.20 STORAGE AND REPAIR OF VEHICLES

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:
 - 1. The vehicles worked upon shall be owned by the resident.
 - 2. Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within a garage.
 - 3. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.
- B. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction being

conducted on the lot.

- C. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying a vehicle for sale, except in approved and licensed car sales lots.
- D. No commercial vehicles exceeding a rated capacity of one (1) ton may be parked on any residential property.

SECTION 3.21 ESSENTIAL PUBLIC SERVICES

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district.

SECTION 3.22 MOVING OR RAZING OF BUILDINGS

The moving of a building to a different location, even if on the same lot, shall be considered the same as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall be applicable.

No building shall be razed until a permit has been issued by the Building Inspector. Permit issuance shall be subject to the razing of the building within a specified timeframe and compliance with all regulations pertaining to the removal of debris, the filling of excavations, and disconnections from existing utilities.

SECTION 3.23 GARAGE AND YARD SALES

No garage or yard sale shall be held on a lot or property for more than fourteen (14) days in total per calendar year or for more than three (3) consecutive days.

SECTION 3.24 KEEPING OF ANIMALS

- A. No livestock animals or fowl other than customary household pets may be housed in any residential districts.
- B. Pets shall not constitute a nuisance.
- C. The keeping of customary household pets must be for personal use only and not for commercial purposes.
- D. Wild and exotic animals shall not be kept in any district in the Village.
- E. Keeping of Chicken or Ducks (Hens Only): See Code of Ordinances Chapter 91: Animal Control, Section 91.12 Keeping of Chickens or Ducks (Hens Only).

SECTION 3.25 PROHIBITION OF MEDICAL MARIHUANA DISPENSARIES

No medical marihuana dispensary shall be commenced, conducted, operated, or utilized in any zoning district or on or from any property within the Village.

A medical marihuana dispensary shall not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualified patients (as defined by Michigan Initiated Law 1 of 2008, as amended , being MCL 333.26421 et seq., as amended).

SECTION 3.26 RESERVED

SECTION 3.27 RESERVED

SECTION 3.28 RESERVED

**CHAPTER 4
NONCONFORMITIES**

SECTION 4.01 INTENT

- A. It is recognized that there exists within Zoning Districts certain buildings and structures, uses, and lots which were lawful before this Ordinance was adopted, and which were legally established, but would be prohibited, regulated, or restricted under changes the regulations of this Ordinance. It is the intent of this Ordinance to permit non-conforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.
- B. Non-conforming lots, buildings, structures, and uses are declared by this Ordinance to be incompatible with the Districts in which they are located. It is the intent of this Ordinance that, unless otherwise permitted by the Board of Zoning Appeals, nonconformities shall not be enlarged upon, expanded, or extended without proper approvals, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the District.

SECTION 4.02 GENERAL REQUIREMENTS

- A. No structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations herein specified for the Zoning District in which it is located.
- B. No use shall be established on any lot, land or premises except in conformity with the use regulations of the Zoning District in which it is located.
- C. No building shall be established on any lot, land or premises except in conformity with the regulations of the Zoning District in which it is located.
- D. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit was issued or on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted. A building permit shall be valid only in the event that construction that is the subject of the permit commences within sixty (60) days after the date of issuance and shall be completed within one (1) year of the issuance date.
- E. The Village may acquire, through purchase or condemnation, non-conforming lots, uses, buildings and structures. The Village Council may take these actions in the manner provided for by law.

SECTION 4.03 NONCONFORMING USES

- A. The lawful use of any land or premises exactly as it existed at the time of enactment of the Zoning Ordinance, or amendment thereto, may be continued although the use does not conform to the current provisions of the Zoning Ordinance.
- B. If a non-conforming use is abandoned for any reason for a period of not less than twelve (12) months, any subsequent use shall conform to the requirements of this Ordinance.
- C. A non-conforming use shall be considered abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute intent on the part of the property owner to abandon the non-conforming use:
 - 1. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - 2. The property, buildings, and grounds, have fallen into disrepair;
 - 3. Signs or other indications of the existence of the non-conforming use have been removed;
 - 4. Removal of equipment or fixtures that are necessary for the operation of the non-conforming use; or
 - 5. Other actions, which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the non-conforming use.
- D. Uses non-conforming solely because of height, area, parking or loading provisions may be expanded provided that the Building Official or designated building inspection service determines that all of the following occur. For the purposes of this subsection expansion shall include extension or enlargement of the use.
 - 1. All Zoning District Requirements are satisfied with respect to the expansion;
 - 2. The expansion shall not substantially extend the life of any non-conforming use by reason of parking and loading provisions; and

3. The non-conforming use is made conforming or less non-conforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the non-conforming use or change in use will not be allowed if it requires even greater parking and/or loading space.
- E. A non-conforming use not addressed in subparagraph 4, above, may be enlarged when authorized by the Zoning Board of Appeals, subject to the following provisions:
1. The enlargement, when permitted, shall not exceed twenty-five percent (25%) of the area of the area devoted to a non-conforming use at the effective date of this Ordinance, or amendment thereto.
 2. Any building used for the non-conforming use shall not be non-conforming or require a variance to affect the enlargement of the non-conforming use.
 3. That the expansion does not create, or make worse, any adverse effect on surrounding properties or the neighborhood.
 4. That the expansion does not intensify the use or unreasonably extend its probable duration.
- F. An existing nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Zoning Board of Appeals:
1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.
 2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise permitted by this Section.
 3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.
 4. Once returned to a conforming use, the previous non-conforming use shall be considered abandoned and may not be reestablished. Subsequent uses shall conform to the requirements of the District.

SECTION 4.04 NON-CONFORMING BUILDINGS

- A. Any building or structure existing and lawful at the time of enactment of the Zoning Ordinance, or amendments thereto, may be continued although the structure does not conform to the current provisions of the Zoning Ordinance.
- B. Repairs and maintenance work may be made as are required to keep a non-conforming building or structure in a sound condition.
- C. In the event fire, wind or an act of God or the public enemy damages any non-conforming building(s) or structure(s), it may be rebuilt or restored provided it meets the district provisions and the replacement cost shall not exceed fifty percent (50%) of the state equalized value of the building or structure after the rebuilding or restoration. The Building Inspector shall determine the cost of reconstruction.
- D. A non-conforming building shall not be expanded in any manner that increases its non-conforming condition. However, it may be expanded in other dimensions, provided that it is in conformance with this Ordinance.

SECTION 4.05 NONCONFORMING LOTS

- A. Where a lot of record in existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width or lot area, the lot of record may be used for any purposes permitted by the district in which the lot is located, provided that any building or structure meets at least eighty percent (80%) of the applicable required setbacks for that District, or obtains a variance from the Zoning Board of Appeals for the setbacks.
- B. If a non-conforming lot has less than the minimum required area or width required for the Zoning District in which it is located, the area or width may be maintained, unless regulated by subparagraph 3, below, but shall not be made more non-conforming.
- C. Where a non-conforming commercial or industrial lot can provide the side and front yard requirements of its zone, the permitted uses of the District shall be allowed.
- D. Where a residential lot of record in existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located, provided that the lot meets at least eighty (80) percent of the required lot area, lot width, and side yard required by that district and further

provided that any building or structure constructed on the lot complies with all other yard setback requirements.

- E. If two (2) or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.
- F. Where two (2) or more non-conforming adjacent lots are in the same or similar ownership and each contain less than minimum required area or width of the Zoning District in which it is located, the lots shall be considered a single lot for zoning purposes. These lots may not be used individually but shall be combined to create a lot that conforms as closely as possible to the District regulations.
- G. A non-conforming lot may only be expanded if it is brought into closer conformity with the regulations specified for the Zoning District in which it is located.

SECTION 4.06 NONCONFORMING SIGNS

- A. Every permanent sign in existence at the time of adoption of this Ordinance which does not conform to the height, size, area, or location requirements of this Ordinance is deemed nonconforming.
- B. Nonconforming signs may not be expanded, enlarged, or extended, but they may be maintained and repaired so as to continue their useful life.
- C. A nonconforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign.

**CHAPTER 5
SITE CONDOMINIUMS AND LAND DIVISIONS**

SECTION 5.01 SITE CONDOMINIUMS

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon provided the unit meets the use and District Regulations for the zoning district in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with Chapter 13.
- D. Monuments shall be set at all boundary corners and deflection points and at all street right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
 - 1. The Zoning Administrator and the Village Engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year from the date of approval by the Village Council, on condition that the developer deposit with the Village Clerk cash, a certified check, or an irrevocable bank letter of credit running to the Village of Fruitport, whichever the developer selects, in an amount as determined from time to time by resolution of the Village Council.
 - 2. The deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified.
 - 3. If the developer defaults, the Village Council shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.
- E. All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.

1. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.
2. The developer shall dedicate to the Village of Fruitport all easements for utilities. Water, sewer and electrical easements may be placed within public rights-of-way, subject to the approval of the Village Engineer and Village of Fruitport standards.
3. All streets proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this Ordinance and other Ordinances of the Village of Fruitport.

SECTION 5.02 LAND DIVISIONS

- A. No lot, parcel of land, or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other minimum requirements of this ordinance. All land divisions, lot splits, or property boundary reconfiguration of platted lots and un-platted parcels of land shall comply with all applicable requirements of this Ordinance and the Michigan Land Division Act.
- B. No land division, lot split, creation of an access easement, or reconfiguration of property boundary lines shall occur unless and until a land division permit has been obtained from the Village Zoning Administrator or such other person as may be designated for such purpose by resolution of the Village Council. No permit for a land division shall be issued unless and until the Village determines that the land division, lot split, access easement, or boundary reconfiguration, as well as the resulting lots, parcels of land, or access easements, fully complies with the requirements of this and all other applicable Village ordinances.
- C. Fees for a land division permit shall be established from time to time by resolution of the Village Council. No land division permit shall be approved or issued unless the application for such permit is accompanied by a survey prepared by a registered land surveyor showing all resulting lots or parcels of land, easements (if any), and legal descriptions thereof.

**CHAPTER 6
ESTABLISHMENT OF DISTRICTS**

SECTION 6.01 ESTABLISHMENT OF DISTRICTS

For the purposes of this Ordinance, the Village of Fruitport is divided into the following zoning districts:

- R-1 Low Density Residential District
- R-2 Multi-family District
- BUS Village Center Business District
- PUD Planned Unit Development District
- MHC Manufactured Home Community District

SECTION 6.02 OFFICIAL ZONING DISTRICTS MAP

The boundaries of the zoning districts enumerated in Section 6.01 are hereby established as shown on the "Official Zoning Map, Village of Fruitport," which accompanies this text; this map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this Ordinance. One (1) copy of the Official Zoning Map shall be maintained and kept up to date by the Village Clerk, accessible to the public, and the final authority as to the current zoning status of all property in the Village.

SECTION 6.03 INTERPRETATION OF DISTRICT BOUNDARIES

If because of the scale, lack of details, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of district boundary lines shall be determined by the Zoning Board of Appeals upon written application.

In arriving at a decision, the Board shall apply the following standards:

- A. The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map.
- B. Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.
- C. Unless shown by dimension on the Official Zoning Map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
- D. Where district boundaries are indicated as approximately following Village limits, they shall be construed as following the Village limits.

- E. A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall be construed as following that centerline.
- F. If a district boundary is indicated as being parallel to, or an extension of a feature described in this Section it shall be so construed.
- G. Where physical or natural features existing on the ground do not coincide with those shown on the Official Zoning Map or in other circumstances not covered in this Section the Zoning Board of Appeals shall determine the district boundaries.

SECTION 6.04 ZONING OF VACATED AREAS

If a street, alley or other public right-of-way within the Village is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, the lands involved shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this Ordinance.

**CHAPTER 7
RESIDENTIAL DISTRICTS**

SECTION 7.01 INTENT AND PURPOSE

The regulations of these Districts are intended to encourage a suitable environment for a variety of residential densities, and compatible supportive recreational, institutional, and educational uses. The intent of the Districts is to protect residential areas from the encroachment of uses that are not appropriate to a residential environment. The R-1, Single Family District is designed to create quiet, single family neighborhoods. The R-2, Multi-family District is designed to permit a variety of housing choices to satisfy various life styles and income levels located in close proximity to commercial districts.

The following abbreviations apply to the Table of Uses for the; R-1, Low Density Residential, and R-2, Multiple Family Residential districts:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

- SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 14 are met.

- NP: Not Permitted: The use is not permitted in the District.

SECTION 7.02 TABLE OF USES

Table of Uses	R-1	R-2
Accessory structures and uses subject to Section 3.10	P	P
Non commercial wind energy conversion systems subject to Section 3.12	P	P
Cemetery or mortuary	SLU	SLU
Home occupations subject to Section 3.17	P	P
Single family detached dwellings	P	P
Multiple family dwellings (with public sewer)	NP	P
Townhouses (with public sewer)	SLU	P
Two-family dwellings	NP	P
Elderly housing (with public sewer)	NP	SLU
Family day care home	P	P
Group day care home	SLU	SLU
Bed and breakfast establishment	SLU	SLU
State licensed residential facility, <i>family care facility</i> , provided the facility shall not be within 1,500 feet of another State licensed residential facility.	P	P
State licensed residential facility <i>Small Group Home Care Facility</i>	SLU	SLU
State licensed residential facility <i>Large Group Home Care Facility</i>	NP	SLU
Convalescent or nursing home	NP	SLU
Elementary, middle and high school (private)	SLU	SLU
Elementary, middle and high school (public)	P	P
Open space development	SLU	SLU
Park, playground or community center and library	P	P
Religious Institution	SLU	SLU

SECTION 7.03 LOT, YARD AND BUILDING REQUIREMENTS

Requirement	R-1	R-2
Minimum lot size	6,000 sq. ft.	10,000 sq. ft. for the first dwelling unit then 3,000 sq. ft. for each additional dwelling unit thereafter
Maximum density	7 units per acre	11 units per acre
Min. lot width & frontage	60 ft.	100 ft.
Lot width to depth ratio	No more than 3 times deeper than the width	No more than 3 times deeper than the width
Setbacks (residential uses)	Front: Shall align or average with neighbors Waterfront*: 50 ft. Side: 6 ft. Rear: 25 ft.	Front: Shall align or average with neighbors Waterfront*: 50 feet Side: 10 ft. Rear: 20 ft.
Setbacks (nonresidential uses)	Front*: 25 ft. Side: 20 ft. Rear: 30 ft.	Front: 25 ft. Side: 20 ft. Rear: 30 ft.
Maximum height	35 feet	35 feet
Min. open space for developments	15%	15%
Minimum dwelling Unit living space (per unit)	Single family or townhouse - 860 sq. ft.	Efficiency - 500 sq. ft. Duplex - 860 sq. ft. per dwelling for total of 1,720 sq. ft. 1 bdrm apt. - 650 sq. ft. 2 bdrm apt. - 750 sq. ft. 3 bdrm apt. - 900 sq. ft.

LAKEFRONT LOTS

- A. On lakefront lots the front yard shall be considered the waterfront. The yard opposite the front yard shall be considered the rear yard.
- B. The waterfront setback shall be measured from the ordinary highwater mark.
- C. A lesser waterfront setback may be approved by the Zoning Board of Appeals based on an average setback line that may be less than that required by this Ordinance, provided eighty percent (80%) of the lakefront lots within two hundred (200) feet and on either side of the subject lot are developed, and the developed lots are within the same zoning district.

D. For all lots abutting or having frontage on the waterfront, each lot shall have frontage on the lake equal to that required of the district.

SECTION 7.04 PARKING REQUIREMENTS

Use	Parking Requirement Spaces per Unit of Measurement
Residential	
Dwelling units	2 per dwelling unit
Family and group day care homes	1 per each 3 children or adults under care, computed on the basis of the licensing limits of the facility
Elderly housing	1 per dwelling unit
State licensed residential family care facility or group home care facility	1 per each 3 beds or 2 rooms, whichever is less, plus 1 per on duty shift staff
Bed and breakfast establishment	2 plus 1 per guest room
Non-Residential	
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Family day care	1 per each 3 clients computed on the basis of the greatest number of clients on site at a given time in addition to those required for the residence
Elementary, middle and secondary schools (private)	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for busses must be provided
High schools (private)	1 space per 5 students or the amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Municipal and public service activities	1 per each 300 sq. ft. GFA, not including parking areas for municipal vehicles (police cars, public works vehicles, etc.), plus spaces required for assembly areas
Parks, playgrounds and community centers	10 per each athletic field plus 5 per each playground

Use	Parking Requirement Spaces per Unit of Measurement
Religious Institutions	2 per each 5 seats for capacity. Based on the maximum seating capacity of the main place of assembly.

SECTION 7.05 PARKING LOCATION

- A. Location of parking
 - 1. The off-street parking facilities required for single family and two family dwellings shall be located on the same lot as the building they are intended to serve. Parking is limited to the garage and driveway. Parking is prohibited on lawns.
 - 2. Off-street parking facilities required for townhouses, multiple family dwellings and non-residential uses shall not be located in the required front or side yard.
 - 3. Parking areas for a multiple family development of over four (4) units adjacent to a single family use or district shall provide a 6-foot screen for the parking area.
 - 4. Where the Zoning Administrator determines that irregular shape or size of a lot or a natural feature precludes the provision of the required number of off-street parking spaces, required off-street parking may be permitted in a required front yard or side yard, provided that the following is met:
 - a. Automobiles shall be parked on an approved paved surface which shall extend as a continuous paved surface to the street, and
 - b. Not more than fifty (50) percent of a required front or side yard shall be utilized as paved surface for the parking of automobiles.

SECTION 7.06 DESIGN STANDARDS

- A. All residential buildings shall have architectural features that provide visual interest including, but not limited to porches, balconies, bay windows, cupolas, and/or dormers.
- B. Outdoor space shall be provided for each townhouses or multi-family dwelling unit at a minimum of fifty (50) square feet per unit, which may be a balcony.

- C. The maximum number of dwelling units permitted per building is four (4) units.
- D. Site amenities may be required by the Planning Commission for residential developments during site plan review and may include but not be limited to: bike racks, play equipment, benches, and trash receptacles.

SECTION 7.07 SIGNS PERMITTED

- A. Entrance way signs of up to thirty-two (32) square feet in area and no more than eight (8) feet in height are permitted at major entry points to residential developments.
- B. One (1) internally illuminated monument sign of up to thirty-two (32) square feet and no more than eight (8) feet in height is permitted for religious worship, schools and parks.
- C. One (1) non-illuminated wall sign of up to four (4) square feet for a home occupation.
- D. One (1) non-illuminated real estate sign not exceeding four (4) square feet in area.
- E. Non-illuminated trespassing, safety, directional, or caution signs not exceeding two (2) square feet in area.
- F. On-site political signs shall be permitted 30 days prior to election date and not exceed nine (9) square feet in display area, provided that the signs are removed no later than five (5) days after the election.
- G. Signs shall not be placed or located upon Village sidewalks or within the public rights-of-way.

SECTION 7.08 SIGNS PROHIBITED

The following types of signs are expressly prohibited:

- A. Any sign that has flashing, or blinking lights, excluding time and temperature signs and barber pole signs, which are permitted.
- B. Signs imitating or resembling official traffic or governmental signs or signals.
- C. Temporary signs.
- D. Signs in the road right-of-way.

E. Any sign not expressly permitted by this Ordinance.

F. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of business advertisement or attraction) hung to draw attention to a business or its merchandise on display.

G. No business vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the road.

SECTION 7.09 SIGNS EXEMPTED

The following signs shall be exempt from the provisions of this Chapter.

A. Governmental signs.

B. Signs for essential services.

C. Historical markers.

D. Memorial signs or tablets.

E. Political signs provided they are not placed more than thirty (30) days prior to the election and they meet the size limitations of the district.

F. Signs with an address and name of the owner or occupant, of not more than one (1) square foot in area, attached to a mailbox, light fixture, or exterior wall.

G. Temporary yard and garage sale signs of four (4) square feet in size or less, located on the property on which the sale is conducted provided they are picked up within forty eight(48) hours after the event has concluded.

H. Window signs provided the total area of all signs within one (1) foot of the window shall not obscure more than fifty (50) percent of the window area.

I. Flags or insignia of any nation, state, local government, community organization, or educational institution.

SECTION 7.10 GENERAL SIGN REGULATIONS

- A. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any lands in the Village except in accordance with the provisions of this Ordinance.
- B. All signs shall be stationary, securely anchored or fastened to the ground or structure and shall be designed and constructed to withstand a one hundred fifteen (115) mile per hour ground wind load.
- C. Signs shall pertain only to the business or activity conducted on the premises, except for political signs, community special event signs, and billboards.
- D. Real estate signs shall not exceed four (4) square feet and be removed within thirty (30) days after completion of the sale or lease of the property.
- E. Political signs shall be permitted 30 days prior to election date and shall not exceed nine (9) square feet and be removed within five (5) days after the election or referendum to which the sign refers.
- F. No sign shall be placed in, or extend into, or obstruct clear vision in any public right-of-way.
- G. The leading edge of the sign shall be a minimum of two (2) feet off the road right-of-way.
- H. Construction signs are permitted subject to the following restrictions:
 - 1. One (1) construction sign may be erected on the site where work is scheduled to begin.
 - 2. Construction signs shall not be larger than thirty two(32) square feet and shall not exceed eight (8) feet in height.
 - 3. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
 - 4. Construction signs shall be removed within fifteen (15) days after the issuance of any occupancy permit for the building or structure which is the subject of the construction sign.
- I. Community special event signs shall not exceed sixteen (16) square feet and may be permitted for a period not to exceed thirty (30) days for any single event. No more than five (5) such signs shall be permitted for any single event and such signs shall be removed within two (2) days of the end of the event.

- J. On-site directional signs shall not exceed four (4) square feet in area per sign, shall not be higher than three (3) feet, and shall not be located closer than five (5) feet to any right-of-way line. No more than two directional signs per road frontage are permitted for any property or use.
- K. No wall sign shall project above the roof line.

**CHAPTER 8
BUSINESS DISTRICTS**

SECTION 8.01 INTENT AND PURPOSE

The **Business District** is intended to support a traditional downtown main-street atmosphere and is characterized by smaller lot sizes, mixed land uses and higher percentages of lot coverage. The district is further intended to promote the consolidation of commercial activities in the existing Village center by providing for a variety of retail, office, restaurant and entertainment activities that are not automotive or industrial dependent. The purpose of this District is to encourage and promote the business use of the first floor of existing structures and to permit residential uses on upper stories. Screening, landscaping, beautification, signage and site design will be strongly considered when sites are developed to ensure they mesh well with adjacent residential uses.

The following abbreviations apply to the Table of Uses:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 14 are met.

NP: Not Permitted: The use is not permitted in the District.

SECTION 8.02 TABLE OF USES

Table of Uses	BUS	
Accessory apartments on the upper floor of a commercial use	P	
Accessory structures subject to Section 3.10	P	
Outdoor or rooftop seating (see requirements below)	P	
Outdoor display (see requirements below)	P	
Arcade (computer or video)	P	
Art studio/craft shop	P	
Bank or other financial institution without drive through facility	P	

Table of Uses	BUS	
Banquet hall and/or conference center	SLU	
Catering establishment	P	
Clinics	P	
Commercial day care center	P	
Commercial mini storage	P	
Contractor's office	P	
Convenience store, with gasoline	P	
Convenience store, without gasoline	P	
Cottage Industry	P	
Drive through facility other than a restaurant (e.g., bank, credit union, pharmacy, dry cleaner)	SLU	
Fraternal or social club or lodge	P	
Electrical docking stations for vehicles as an accessory use, it does not inhibit required parking	P	
Government Institutions or facilities	SLU	
Public utility Facilities	SLU	
Health or exercise club	P	
Hotel/motel	P	
Indoor theater	P	
Kennel, commercial	SLU	
Laundromat	p	
Light Manufacturing	SLU	
Medical office	P	
Mortuary or funeral home	SLU	
Open air business	SLU	
Personal service establishment (e.g., salon, tailor, dry cleaning drop-off site, etc.)	P	

Table of Uses	BUS	
Places of religious worship	SLU	
Professional offices e.g., attorneys, accountants and dentists	P	
Parks, playgrounds, library or public schools	SLU	
Recreation facility, indoor (e.g., bowling, billiards)	SLU	
Recreation facility, outdoor (e.g., mini-golf, batting cages)	SLU	
Restaurant with drive-through facility	SLU	
Restaurant without drive-through facility	P	
Retail establishments of 20,000 square feet GFA and over	SLU	
Retail establishments under 20,000 square feet GFA	P	
Tattoo Parlor	SLU	
Tavern or pub	SLU	
Vehicle repair, major	SLU	
Vehicle repair, minor	SLU	
Vehicle sales	SLU	
Vehicle service station	SLU	
Vehicle wash establishment	SLU	
Veterinary clinic	P	
Video rental and sales (except that video rentals are permitted as an accessory use when accessory to another retail use)	P	
Wind Energy Conversion systems, commercial	SLU	
Wireless communication tower	SLU	
Wireless communications <u>antenna</u> when attached to a lawful existing telecommunications tower, water tower, or other structure, subject to overall height restrictions	P	

SECTION 8.03 LOT, YARD AND BUILDING REQUIREMENTS

Lot Requirements	BUSINESS	
Minimum Lot Area	5,000 sq. ft.	
Minimum Lot Width	50 ft.	
Minimum Lot Depth	100 without sewer	
Lot Width to Depth Ratio	No more than 3 times deeper than the width	
Maximum Lot Coverage	50%	
Minimum Front Setback	The "build-to" line shall not be closer than 10 feet to the public sidewalk.	
Maximum Front Setback	NA	
Side Setback*	6 ft.	
Minimum Rear Setback	15 feet	
Maximum Height	35 ft.	

* **Zero lot line option**: Buildings may be granted a SLU and erected with a zero side lot line provided:

- A. The building has an approved fire rating for zero-lot line development under the building code.
- B. The building has adequate fire access preserved pursuant to fire code requirements.
- C. The zero lot line side is not adjacent to a street.

D. It is also not adjacent to wetlands, or waterfront.

SECTION 8.04 PARKING REQUIREMENTS

Parking Space Requirements - Business District	
Use	Parking Requirement Spaces per Unit of Measurement
	GFA = gross floor area UFA = usable floor area
Residential	
Accessory apartments as part of a commercial use	1 per dwelling unit
Art studio/craft shop or cottage industry	1 space per 800 sq. ft. of GFA
Bank or other financial institution without drive-through facility	1 space per each 400 sq. ft. of GFA
Banquet hall and/or conference center and Catering establishment	1 space for every 4 persons by occupancy permitted in the structure by fire code
Commercial day care center	1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Commercial mini storage	1 space for every storage unit (adjacent to the units) plus 1 for each employee
Convalescent or nursing home	1 space per each 3 beds or 2 rooms, whichever is less, plus 10 spaces marked for visitors
Convenience stores	One space per 100 sq. ft. of GFA plus one per gas pump as applicable
Fraternal or social club or lodge	1 space for every 4 persons by occupancy permitted in the structure by fire code
Health or exercise club	1 space for every 6 persons by occupancy permitted in the structure by fire code

Hotel/motel	2 spaces for employees, plus 1 for each guest room
Indoor theater	1 space per each 3 seats, plus 1 for each 2 employees
Kennel, commercial	1 space for each 400 sq. ft. of UFA
Laundromat	1 space for each 2 machines
Medical office and Clinics	1 space per each 400 sq. ft. of GFA
Mortuary or funeral home	1 space per each 100 sq. ft. of UFA
Open air business	1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any main building and associated accessory uses
Personal service establishments and Tattoo parlors	2 spaces per service provider
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Professional office	1 space per each 400 sq. ft. of GFA
Indoor recreation facility and Arcades	1 space for every 3 persons by occupancy permitted in the structure by fire code
Recreation facility, outdoor	1 space per each 2 miniature golf holes, plus 2 per each batting cage, plus 1 per each 100 sq. ft. of GFA of arcade space
Restaurant without drive through facility	1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes for the area devoted to indoor seating
Retail building supplies and equipment store	1 space per each 300 sq. ft. of UFA
Retail establishments and Pawn Shops	1 space per each 300 sq. ft. of GFA
Tavern, with or without dancing, live entertainment or consumption of alcoholic beverages on premises	1 space for every 3 persons by occupancy permitted in the structure by fire code

Vehicle repair, minor and major	1 space per service bay plus 1 space per employee
Vehicle sales	1 per each 300 sq. ft. of GFA in the showroom/office, plus required spaces for accessory repair areas
Vehicle wash establishment	1 space per each 3 wash bays plus stacking as required by Chapter 16
Veterinary clinic	1 space for each 400 sq. ft. of UFA
Video rental and sales	1 for each 800 sq. ft. UFA plus 1 for each 2 employees
Wind Energy Conversion, commercial	1 space for service vehicles
Wireless communications tower	1 space for service vehicles

SECTION 8.05 PARKING LOCATION

- A. Except for 3rd Avenue, up to 30% of the parking requirements may be met with on- street parking or parallel parking with Planning Commission approval during the site plan review process.
- B. Off-street parking facilities in the Business District shall be primarily provided in side or rear yards.
- C. Parking shall be provided in accordance with the number of spaces required in this section. Parking shall not exceed nor be less than the Required Spaces per Unit of Measure for new uses. In accordance with this section, the Planning Commission may approve additional or fewer spaces, provided the applicant demonstrates that adequate parking will be provided, excessive parking will be avoided, and snow storage is accommodated.
- D. A portion of the required parking area may be deferred until some future date, provided that adequate space on the property is reserved for future parking, and provided that the reserved area is used as open landscaped space until parking is constructed. A permit shall be required and Planning Commission approval prior to construction of a deferred parking area.
- E. For uses not specifically listed, off-street parking shall be provided as required for the most similar use, as determined by the Planning Commission. The Planning Commission may reference industry standards to establish such requirements.

- F. When calculations determining the number of required parking spaces result in a fractional space, any fraction up to and including ½ shall be disregarded and fractions over ½ shall require one (1) additional parking space.

SECTION 8.06 DESIGN STANDARDS

- A. Buildings shall possess architectural variety, but create an overall cohesive community character. Architectural features of the buildings shall include details and ornaments such as archways, colonnades and cornices. Building entrances shall utilize windows, canopies and awnings. Roofs may be pitched so long as a parapet is provided from the roof line to the peak effectively screening the pitch from view.
- B. Buildings, roofs and sign materials and colors shall relate well and be harmonious with the surrounding area. Subtle colors should be used for building, sign and roofing material.
- D. New construction and physical changes shall create or maintain horizontal and vertical spacing of façade elements such as windows, entries and rooflines, in keeping with the rhythm of the bays, windows and openings of surrounding buildings.
- E. The first floor of the front face of all commercial and office buildings shall have:
 - 1. A minimum of 50% brick, stone (or composites mimicking brick or stone) or split block on the remaining surface areas of the first floor.
 - 2. In no case shall vertical siding, cinder blocks or sheet metal be considered an acceptable outdoor wall covering on the front face of a building.
- F. Building walls over one hundred (100) feet in length shall be broken up with varying building lines, windows, architectural accents and trees.
- G. All uses fronting Third Avenue shall meet the access requirements of Section 12.01
- H. Site amenities may be required by the Planning Commission as part of site plan review and may include but not be limited to: bike racks, benches and trash receptacles.

SECTION 8.07 OUTDOOR AND ROOFTOP SEATING

Outdoor and rooftop seating are encouraged as a means to create vibrancy in the Village center. Seating shall adhere to the following:

- A. Except for sanctioned community events, a site development plan shall be provided to the Zoning Administrator for review, or the seating area may be reviewed as part of the site plan review process with the Planning Commission.
- B. The area devoted to outdoor seating must be ancillary to the main use of an indoor restaurant, pub, bakery, coffee shop, delicatessen, specialty food store, or similar establishment.
- C. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of five (5) feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances.
- D. The seating area shall be limited to the area directly in front of the permitted use to which the seating area is accessory and shall not extend into adjoining sites.
- E. Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the main building.
- F. Outdoor seating areas shall be landscaped and may be required to be walled or fenced off from other activity areas.
- G. Outdoor amplification shall not be disruptive to surrounding uses.
- H. The area devoted to outdoor service shall not encroach upon or extend over any required parking, public alley or right-of-way.
- I. The outdoor seating area shall not obstruct visibility of on-coming pedestrians or vehicular traffic.
- J. The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.
- K. Roof seating shall comply with the building code.

SECTION 8.08 OUTDOOR DISPLAY

- A. Except for sanctioned community events, a site development plan shall be provided to the Zoning Administrator for review, or the display area may be reviewed as part of the site plan review process with the Planning Commission.

- B. Merchandise sold and/or displayed shall be accessory to the business conducted within the primary structure and shall be owned, leased or operated by the same individual(s) or business(es) occupying the primary structure.
- C. Outdoor display and sales shall not be located in any required parking or circulation area, loading area, access way, required setback, landscaping or applicable clear vision triangle.
- D. Outdoor sales and display shall be prohibited on public land or public right-of-way.
- E. Display areas shall maintain adequate clear area for safe pedestrian circulation along any pedestrian route.
- F. The area devoted to outdoor display shall be kept in a neat and orderly manner.
- G. No items shall be stored, displayed, or stacked above a height of five (5) feet.
- H. Public art subject to standards & controls in the Village of Fruitport Public Art Policy (current version.)

SECTION 8.09 SIGNS

The following signs are permitted in the Business District:

- A. A non-illuminated real estate sign not exceeding sixteen (16) square feet in area.
- B. On-site political signs not exceeding sixteen (16) square feet in display area. They shall not be erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within five (5) days of the election.
- C. Wall signs maybe placed provided that they do not project more than two (2) feet above the main roof line.
- D. One (1) monument sign is permitted per property, regardless of the number of businesses there. One half (1/2) square foot of sign is permitted for each linear foot of road frontage. Maximum height of the sign is six (6) feet.
- E. Wall signs of up to fifteen (15) percent of the area of the front face of the first floor of the building. The wall sign allotment may be placed

on any building face. Awning signs and printed copy on gas canopies shall be considered as part of the wall sign allotment.

- F. Pylon sign. A free standing sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles, or braces which are less than 50 percent of the width of the sign.
1. Maximum Number – One per property, except if a property has two or more street frontages, there may be one pylon sign for each for each street frontage, but if there is a pylon sign on a street frontage, there may not be a ground sign on that frontage.
 2. Maximum Size – 32 square feet
 3. Maximum Height – 20 feet
 4. Location – At least five feet away from all property lines.
- G. Electronic Changeable Message Sign. A sign that consists of or includes an image, message or sign face that is projected or otherwise produced, in whole or in part by electronic means, which may include the use of light-emitting technologies, liquid crystal displays, computer generated images or messages or lights or a series of lights produced or operated by electronic means.
1. Maximum Number – One for each street frontage
 2. Maximum Size – Not larger than 40% of the sign area in which it is included; the entire sign area shall not be larger than that permitted in the district for a ground sign or a wall sign.
 3. Maximum Height – If a ground sign, six feet; if a pylon sign, 20 feet.
 4. Location – Shall be included only as part of a permitted ground, pylon or wall sign.
 5. The message shall cannot resemble flashing lights customarily used in traffic signals; or flashing lights resembling police, fire, ambulance, or rescue vehicles, or flashing lights resembling traffic directional signs or devices; the message cannot contain words "stop", "danger", or any words, phrases, symbols, or characters,

in such a manner as to interfere with, mislead, or confuse, a vehicle or driver.

- H. Temporary Portable Sign. A sign such as electronic reader board shall be permitted for a 30 day period not to exceed three (3) times per calendar year and no two 30 day periods can be consecutive so as to result in a continuous 60 day period.

SECTION 8.10 SIGNS PROHIBITED (See also Section 4.06 – Nonconforming Signs)

The following types of signs are expressly prohibited:

- A. Any sign that has flashing, or blinking lights, excluding time and temperature signs and barber pole signs, which are permitted.
- B. Signs imitating or resembling official traffic or governmental signs or signals.
- C. Signs in the road right-of-way.
- D. Any sign not expressly permitted by this Ordinance.
- E. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of business advertisement or attraction) hung to draw attention to a business or its merchandise on display.
- F. No business vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the road.

SECTION 8.11 SIGNS EXEMPTED

The following signs shall be exempt from the provisions of this Chapter.

- A. Governmental signs.
- B. Signs for essential services.
- C. Historical markers.
- D. Memorial signs or tablets.
- E. Political signs provided they are not placed more than thirty (30) days prior to the election and they meet the size limitations of the district.

- F. Signs with an address and name of the owner or occupant, of not more than one (1) square foot in area, attached to a mailbox, light fixture, or exterior wall.
- G. Temporary yard and garage sale signs of four (4) square feet in size or less, located on the property on which the sale is conducted provided they are picked up within forty eight (48) hours after the event has concluded.
- H. Window signs provided the total area of all signs within one (1) foot of the window shall not obscure more than fifty (50) percent of the window area.
- I. Flags or insignia of any nation, state, local government, community organization, or educational institution.

SECTION 8.12 GENERAL SIGN REGULATIONS

- A. Sign Permit – It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge or illuminate any sign unless a permit shall have been first obtained from the Village Zoning Administrator; provided, a permit shall not be required with respect to those signs that are specifically excluded from permitting requirements of this chapter. A sign that makes use of electricity shall, in addition to a sign permit, require an electrical permit, regardless of size.
- B. Sign Area – The area of a sign shall be measured within a single, continuous rectilinear perimeter composed of straight lines which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces and/or uprights of the sign. When two (2) sign faces are placed back-to-back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty four (24) inches apart at any point, the sign area shall be computed by the measurement of one (1) of the faces.
- C. Sign setbacks. All signs shall be set back a minimum of one-half of the front yard setback except for Temporary Portable Signs. Placement of Temporary Portable Signs shall be subject to a determination by the Zoning Administrator or Building Inspector that said placement will not impact safety or visibility for motorists and pedestrians.
- D. Height. Sign height shall be measured as the vertical dimension from the median natural grade to the highest point of the highest attached

component of the sign. A sign shall not extend beyond the edge of the wall to which it is affixed nor above the roof line of a building to which it is attached.

- E. If any projecting sign is suspended over a public property, public street, sidewalk or alley, the owner of such sign shall keep in force a public liability insurance policy in the minimum amount of \$1,000,000. In addition, when a sign is extending over a public right-of-way, a Building Variance Permit must be obtained, which will require showing the insurance liabilities. The Licensee shall at all times carry liability insurance in such amounts as are satisfactory to the Village of Fruitport, licensed in the State of Michigan naming the Village as an additional insured on any such policy. Licensee will file with the Village certificates of policies evidencing such insurance coverage. The insurance policies or certificates shall provide that the Village shall be given thirty (30) days written notice before a cancellation in coverage may occur.
- F. If at any time the insurance policy is canceled, the projecting sign shall be immediately removed. In the event the sign is not so removed, the Village of Fruitport shall have the right to remove the sign and repair the façade at the expense of the property owner.
- G. All ground or roof signs shall be stationary, securely anchored or fastened to the ground or structure and shall be designed and constructed to withstand a one hundred fifteen (115) mile per hour ground wind load
- H. Signs shall pertain only to the business or activity conducted on the premises, except for political signs, community special event signs, and billboards.
- I. Real estate signs shall not exceed four (4) square feet and be removed within thirty (30) days after completion of the sale or lease of the property.
- J. Political signs shall not exceed nine (9) square feet and be removed within five (5) days after the election or referendum to which the sign refers.
- K. No sign shall be placed in, or extend into, or obstruct clear vision in any public right-of-way or Spring Lake View Shed
- L. The leading edge of the sign shall be a minimum of two (2) feet off the road right-of-way.
- M. Construction signs are permitted subject to the following restrictions:

1. One (1) construction sign may be erected on the site where work is scheduled to begin.
 2. Construction signs shall not be larger than thirty two (32) square feet and shall not exceed eight (8) feet in height.
 3. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
 4. Construction signs shall be removed within fifteen (15) days after the issuance of any occupancy permit for the building or structure which is the subject of the construction sign.
- N. Community special event signs shall not exceed sixteen (16) square feet and may be permitted for a period not to exceed thirty (30) days for any single event. No more than five (5) such signs shall be permitted for any single event and such signs shall be removed within five (5) days of the end of the event.
- O. On-site directional signs shall not exceed four (4) square feet in area per sign, shall not be higher than three (3) feet, and shall not be located closer than five (5) feet to any right-of-way line. No more than two directional signs per road frontage are permitted for any property or use.
- P. Wall signs may be placed provided they do not project more than two (2) feet above the main roof line.

**CHAPTER 9
PLANNED UNIT DEVELOPMENT DISTRICT**

SECTION 9.01 STATEMENT OF PURPOSE

- A. The purpose of the PUD District is to permit coordinated development on larger sites in order to achieve the following:
1. Permit flexibility in the regulation of land development allowing for higher quality of projects through innovation in land use, variety in design, layout, and type of structures constructed.
 2. Provide the opportunity to mix compatible uses or residential types.
 3. Allow clustering of residential units to preserve common open space, or natural features.
 4. Ensure compatibility of design and function between neighboring properties.
 5. Promote efficient provision of public services, utilities and transportation facilities.
 6. Provide convenient vehicular access throughout the development and minimize adverse traffic impacts.
 7. Provide complete non-motorized circulation to, from and within developments.
 8. Provide adequate housing and employment opportunities.
 9. Encourage development of convenient recreational facilities as an integral part of residential developments.
 10. Ensure the type, scale and mass of uses and structures will relate harmoniously to each other and to adjoining existing and planned uses.
 11. Encourage development that is consistent with the goals stated within the Village of Fruitport Master Plan.

- B. These Planned Unit Development regulations are not intended to be used for circumventing the more specific standards and requirements of this Ordinance, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the Village, assure a superior quality of development. If this improved quality is not clearly apparent upon Village review, a site shall not qualify for the modifications allowable under this Chapter.

SECTION 9.02 ELIGIBILITY CRITERIA

To be eligible for Planned Unit Development approval, the applicant must demonstrate that all of the following criteria will be met:

- A. The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district:
 - 1. Preservation of significant natural features.
 - 2. Preservation of open space.
 - 3. A complementary mixture of uses or a variety of housing types.
 - 4. Common open space for passive or active recreational use.
 - 5. Redevelopment of a non-conforming site where creative design can address unique site constraints.
- B. Landowners involved in a proposed Planned Unit Development must provide a signed agreement among all involved parties, which is approved by the Village's attorney that indicates their agreement with the PUD development.
- C. Public water and sewer must be provided to the development.
- D. When proposed construction is to be phased, the project shall be designed in a manner that allows a phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of users of the open space community and the residents of the surrounding area.

SECTION 9.03 TYPES OF PUDS

- A. An application meeting the eligibility criteria may be rezoned to a PUD District based on the requirements shown in the following table and appropriate requirements contained elsewhere in this Ordinance. The rezoning shall be concurrent with the approval of a preliminary PUD plan. The PUD designation shall be noted in the application and on the Official Zoning Map upon approval.

PUD DESCRIPTIONS				
PUD District	Minimum PUD Size	Locations Allowed	Permitted Uses	Percentage Open Space Required
Residential (RPUD) Standards under Sec. 9.04	5 acres	Where pre-PUD zoning is a R-1 and public sewer is available.	Residential uses permitted in the pre-PUD zoning district with additional uses as provided in this Chapter.	20%
Mixed Use (MPUD) Standards under Sec. 9.05	None	Where pre-PUD zoning is R-2 Or BUS	Residential, commercial, office, recreational, and additional uses provided in this Chapter.	15%

SECTION 9.04 RESIDENTIAL PUD (RPUD) STANDARDS

- A. The purpose of the RPUD is to promote neighborhood development which provides a variety of single-family housing opportunities in addition to small scale multiple family uses. RPUD developments are intended to integrate pedestrian and cyclist links among neighborhoods and to public facilities.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission shall determine appropriate lot dimensions and building and lot requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD. The height restrictions with any use shall not be increased by more than twenty-five percent (25%).

- C. Dwelling units are to be limited to a maximum of four (4) units per building.
- D. The PUD may also include any Special Land Uses permitted in the Zoning District. The list of allowed uses shall be established in the PUD agreement.
- E. Design Standards
 - 1. Public dead-end or cul-de-sac streets are to be discouraged; however, they are acceptable on private streets. Eyebrow, court, or stub streets are preferred for public streets.
 - 2. Where adjoining areas are not subdivided, the arrangement of streets within the proposed RPUD shall be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
 - 3. Open space areas must adhere to the requirements of Section 9.06

SECTION 9.05 MIXED USE PUD (MPUD)

- A. A Mixed Use PUD shall include a mixture of uses that are considered to be consistent with the Master Plan. A minimum of forty percent (40%) of the PUD land area shall be occupied by residential or recreational uses. The list of uses allowed shall be established in the PUD approval.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission shall determine appropriate lot dimensions and building and yard requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD. The height restrictions with any use shall not be increased by more than twenty-five percent (25%).
- C. Site Design Standards
 - 1. The applicant shall demonstrate that the proposed lot dimensions and building and yard requirements shall result in a higher quality of development than would be possible using conventional zoning standards.
 - 2. Dead-end or cul-de-sac streets serving the development are discouraged. Eyebrow, court, or stub streets are preferred.

3. Where adjoining areas are not subdivided, the arrangement of streets within the proposed MPUD may be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
4. To encourage a true integration of mixed uses and improved efficiency in land use, the overlap in parking requirements may be permitted between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips.
5. Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.
6. Open space areas must adhere to the requirements of Section 9.06.
7. Building design shall meet the standards of the underlying district.

SECTION 9.06 OPEN SPACE REQUIREMENTS FOR ALL PUDS

- A. All PUDs shall meet the following requirements for open space.
 1. Designated open space shall be set aside through an irrevocable conveyance, approved by the Village Attorney, such as a recorded deed restriction, covenants that run perpetually with the land, a conservation easement, or dedication to a land trust. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further use of open space for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Village Council approval, and shall not diminish compliance with the requirements of this Chapter.
 2. Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.

3. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, recreation, visual impact, and access.
4. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach recreational or common open spaces.
5. The following land areas shall not be included as dedicated open space for the purposes of meeting minimum open space requirements:
 - a. Area proposed as residential lots.
 - b. Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
 - c. The area of any street right-of-way or private street easement.
 - d. Surface water, detention or retention basins, unless designed to have the appearance of a natural wetland, in which case they may be counted for up to fifty percent (50%) of the required open space.
 - e. Parking and loading areas except those exclusively associated with a recreation facility or common open space area.
 - f. Any other undeveloped areas not meeting the intent and standards for open space stated in this Section, as determined by the Village Council.
6. On-site common open space shall be planned in locations visible and accessible to all in the development. The Village Council shall determine if the proposed open space is usable and functional. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent uses, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
 - a. Any significant natural features.
 - b. At least one-third (1/3) of the required common open space shall be usable open space for the residents of the development.

- c. Open space, except for where trails and bike paths are located, shall have minimum dimensions of one hundred (100) feet on any side.
- d. Where an open space preservation development abuts a body of water, at least fifty percent (50%) of the shoreline, as well as reasonable access to it, shall be a part of the common open space land.
- e. A minimum twenty-five (25) foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the Village Council may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
- f. Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space developments shall be constructed to allow future interconnection.

SECTION 9.07 PUD REVIEW PROCESS

- A. Pre-Application Meeting
 - 1. An applicant for a Planned Unit Development shall attend a pre-application meeting with staff members, or consultants if the Village Zoning Administrator deems advisable.
 - 2. The purpose of the pre-application meeting is to determine general compliance with PUD eligibility and design requirements, and to identify issues of significance regarding the proposed application.
 - 3. If the applicant proceeds with the PUD application, a report on the findings of the pre-application meeting shall be forwarded to the Planning Commission.

- B. The applicant shall prepare and submit to the Village a request for rezoning to the appropriate PUD designation, including appropriate fees, six (6) copies of a preliminary PUD site plan meeting the requirements of Chapter 13, including a narrative which details how the plan relates to the Intent and purpose of the PUD District, phases of development, and approximate time frames for each phase. Materials shall be submitted at least forty-five (45) days prior to the meeting at which the Village Council shall first review the request.
- C. During the PUD review process, the Village Council may require additional information it determines is reasonably necessary to demonstrate compliance with the review standards of this Chapter. This information may include, but not be limited to, soil reports, hydrological tests, traffic studies or wetland determinations.
- D. In addition to the pre-application meeting, a workshop may be required by the Village Council, or, if not required, the workshop may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal.
- E. The Village Council shall review the PUD rezoning request, the preliminary PUD site plan and conduct a public hearing in accordance with the requirements of the Zoning Act.
- F. The Planning Commission shall review the preliminary PUD site plan in consideration of public hearing comments, technical reviews from Village staff, and other comments from consultants and applicable review agencies, and compliance with the standards and requirements of this Ordinance. The Planning Commission shall make a recommendation and the Village Council shall approve, approve with conditions, or deny the request.
- G. The decision shall be based on the following standards:
 - 1. The PUD shall satisfy the Statement of Purpose of Section 9.01 and the Eligibility Criteria of Section 9.02.
 - 2. The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area. Architecture should provide coordinated and visually appealing styles, building forms and building relationships.
 - 3. The PUD shall be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage systems, water supply and sewage facilities.

4. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
5. The design of the PUD shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation, access location and design, circulation, roadway capacity, traffic operations at proposed access points and nearby intersections.
6. Natural features shall be preserved, insofar as practical, by removing only those areas of natural vegetation or making those alterations to the topography which are reasonably necessary to develop the site.
7. Natural drainage ways shall be preserved insofar as practical, by minimizing grading, tree and soil removal in and adjacent to natural drainage swales.
8. Slopes of over fifteen percent (15%) are protected and maintained in a natural state.
9. The proposed PUD shall not have an unacceptable significant adverse effect on the quality of the natural features in comparison to the impacts associated with a conventional development.
10. The proposed development shall not have an adverse impact on future development as proposed in the Master Plan of the Village.
11. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Zoning Ordinance.
12. The proposed development shall adequately consider pedestrian and cyclist safety and circulation, and tie sidewalks, paths and trails into public facilities and adjoining properties.
13. Approval or Approval with Conditions
 - a. Upon determination that a PUD site plan is in compliance with the standards and requirements of this Ordinance and other applicable Ordinances and laws, the Village shall approve the preliminary PUD site plan.

- b. The Village Council may impose reasonable conditions with the approval of a PUD. Conditions of any approval are attached to the land and will remain through subsequent owners. The applicant shall submit a revised PUD site plan that demonstrates compliance with the conditions.
 - c. Approval of the preliminary PUD plan shall constitute approval of the rezoning and the Zoning Map shall be changed to indicate the zoning of the property to the appropriate PUD District.
14. Denial: Upon determination that a PUD site plan does not comply with standards and regulations set forth in this Ordinance, or requires extensive revision in order to comply with the standards and regulations, the Village Council shall deny the application. Re-submittal of a denied application shall be considered a new application.

SECTION 9.08 FINAL APPROVAL

- A. Final site plans shall be submitted for review and approval in accordance with the Site Plan Review provisions of this Ordinance. If final site plans for at least the first phase of the project are not submitted and approved within a two (2) year period from the approval of the rezoning, the right to develop under the approved PUD preliminary site plan shall terminate and a new application must be filed.
- B. In reviewing final site plans, the following standards and requirements shall apply:
 - 1. Final site plans shall be in substantial conformance with the approved PUD preliminary plan.
 - 2. Each final site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this Chapter and the approved PUD preliminary plan regarding layout, density, open space and land use.
 - 3. Each final site plan submission shall include a map illustrating the site or phase in relation to previously approved plans and the overall PUD.
 - 4. Any requested amendment to the approved Agreement, as provided for in Section 9.11 shall be submitted for review by the Village Attorney and approved by the Village Council.

SECTION 9.09 EXTENSIONS

The two (2) year period for preliminary PUD approval may be extended for one (1) year, if applied for in writing by the petitioner prior to the expiration of the PUD preliminary plan approval, and granted by the Village Council, provided that the reasons for the delay are beyond the general control of the applicant.

SECTION 9.10 REVISIONS TO APPROVED PUD PLANS

- A. The Zoning Administrator may approve certain minor deviations when an applicant or land owner who was granted site plan approval notifies the Zoning Administrator of the proposed amendment to the approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.

- B. Within fourteen (14) days of receipt of a written request to amend the site plan, the Zoning Administrator shall determine whether the change is major, warranting review by the Planning Commission, or minor, allowing administrative approval, as noted below.

- C. The Zoning Administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the Agreement, would not reduce the area devoted to open space, and all applicable regulations of this Ordinance will be met. The Zoning Administrator shall inform the Village Council and Planning Commission of the approval in writing.

- D. The Zoning Administrator shall consider the following when determining a change to be minor:
 - 1. For residential buildings, the square footage of structures may be reduced or increased by ten percent (10%) of the originally approved area, provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend into any required open space or required setback.

 - 2. Gross floor area of non-residential buildings may be decreased; or increased by up to ten percent (10%) or two thousand (2,000) square feet, whichever is smaller, of the originally approved area, provided parking requirements are met and the building does not extend into any required open space or required setback.

 - 3. Floor plans may be changed if consistent with the character of the use.

4. Relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other requirements.
 5. Height of buildings may be lowered.
 6. Designated woodlands or areas not to be disturbed may be increased.
 7. Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced at the equivalency of a caliper-per-caliper basis on the site.
 8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate.
 9. Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the Building Official.
 10. Grade change of up to two (2) feet, after review by the Village Engineer.
 11. Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan.
 12. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
 13. Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan.
 14. Changes required or requested by the Village, County or State for safety reasons.
- E. Where the Zoning Administrator determines that a requested amendment to the approved site plan is major, re-submittal to the Planning Commission shall be required. Should the Planning Commission determine that the modifications are inconsistent with the approved preliminary PUD plan, a new preliminary PUD site plan shall be submitted according to the procedures outlined in this Chapter as a new application. In all cases, a change in use to a more intensive use than approved in the preliminary PUD plan shall be considered major and require submission of a new preliminary PUD Plan.

- F. Decisions granting PUD approval or any regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD may be appealed to the Zoning Board of Appeals nor shall an application for variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan and otherwise meets the applicable review standards applicable to variances in this Ordinance.

SECTION 9.11 DEVELOPMENT AGREEMENT

- A. Prior to any site preparation or the issuance of any building permits, the applicant shall submit a Development Agreement stating the conditions upon which approval is based, for review and approval by the Village. The Agreement, after review and approval by the Village Council, shall be recorded with the County Register of Deeds.
- B. At a minimum, the Development Agreement shall provide:
1. A certified boundary survey of the acreage comprising the proposed development.
 2. The manner of ownership of the developed land and the manner of the ownership and of dedication common areas in additions to a mechanism to protect any designated common open areas.
 3. Satisfactory provisions to provide a performance guarantee for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development.
 4. Provisions to ensure adequate protection of natural features.
 5. A copy of the approved preliminary PUD site plan signed by the applicant and the Zoning Administrator or appointed designee.

SECTION 9.12 PERFORMANCE GUARANTEES

The Village Council may require a performance guarantee in accordance with Section 16.04 to insure compliance with the approved PUD.

CHAPTER 10

CHAPTER 10 RESERVED

**CHAPTER 11
MANUFACTURED HOME COMMUNITY**

SECTION 11.01 INTENT AND PURPOSE

The purpose of this District is to allow for the establishment of manufactured home communities and related accessory uses in areas with public water and sewer. A manufactured home community shall comply with all applicable procedures and requirements of the Manufactured Home Commission Act, 419 of 1976, as amended, and the Michigan Administrative Code.

SECTION 11.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for the MHD District:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 14 are met.

Table of Uses	R-3
Accessory structures and uses as defined in Chapter 2 and subject to Section 3.10	P
Cemeteries	SLU
Convalescent or nursing home	SLU
Elementary, middle and secondary schools (private)	SLU
Home occupations subject to Section 3.16	P
Manufactured home community	P
Parks, playgrounds and community centers	P
Places of religious worship	SLU
Public and utility service buildings	SLU
Utility substations, transmission lines and switching stations	SLU
Wireless communication towers	SLU

Table of Uses	R-3
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other existing structure, subject to District height restrictions	P

SECTION 11.03 DEVELOPMENT REQUIREMENTS

Application and Review Requirements. Application and review requirements for the MDH District shall be the same as those required for Site Plan Review in Chapter 13. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the Zoning Administrator.

SECTION 11.04 LOT, YARD AND BUILDING REQUIREMENTS

Regulation		Individual Manufactured Home Sites*
Manufactured Home Site	Area/Dwelling Unit	5,000 sq. ft.
	Width (ft.)	40 ft.
Setback Requirements	Front Yard	50 ft. for the park, 5 ft. for individual sites
	Side Yard (1/total of 2)	50 ft. for the park, 10/30 for individual sites
	Rear Yard	50 ft. for the park, 15 ft. for individual sites
Building Requirements	Maximum Building Height (Stories/ft.)	2/35 for community buildings; 1/15 for dwellings and all other buildings
	Minimum Floor Area Per Dwelling Unit	980 sq. ft.

SECTION 11.05 PARKING REQUIREMENTS

Parking Requirements	
Use	Parking Requirement Spaces per Unit of Measurement
Residential	
Elementary, middle and secondary school, private	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Cemeteries	2 spaces plus 1 space for each 400 sq. ft. of UFA for office spaces, plus that required for a caretaker's residence
Manufactured home community	2 spaces per manufactured home site, plus 1 space per each 5 home sites for use of visitors, plus 1 space for each 300 sq. ft. UFA in the office area
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Park, playground and community center	10 per each athletic field, plus 1 per each 10 sq. ft. of indoor or outdoor play area
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Wireless communications tower	1 space per tower

SECTION 11.06 LOCATION OF PARKING

- A. **Manufactured Home Community:** The off-street parking facilities required for a single home site shall be located on the same lot as the dwelling unit they are intended to serve. Parking is limited to the garage/carport and driveway only. Required parking spaces provided for visitors shall be evenly distributed throughout the development.
- B. **Non-residential Uses:** The off-street parking facilities required for non-residential uses shall not be located in the required front yard area. The respective side and rear yard setback common to an adjacent Residential District or use shall be a minimum of thirty (30) feet of which ten (10) feet nearest the respective property line shall be developed as a buffer strip in accordance with Section 12.03.

- C. The buffer strip shall extend the entire depth of the side of the lot in the case of the side yard parking adjoining the Residential District or use, or the width of the rear of the lot in the case of rear yard parking adjoining the Residential District or use. The required buffer strip shall incorporate a minimum six (6) foot high vertical screen.
- D. The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table.

SECTION 11.07 SIGNS

- A. Signs: General sign regulations are listed in Section 7.10 . The following signs are permitted in the Manufactured Home Community District:
 - 1. Residential entrance way signs (of up to thirty-two (32) square feet) are permitted for residential developments. One (1) sign for each major public street frontage may be provided. Signs shall not exceed eight (8) feet in height.
 - 2. Internally illuminated monument signs of up to thirty two(32) square feet for institutional uses such as places of religious worship, schools and parks. Signs shall not exceed eight (8) feet in height.
 - 3. One (1) non-illuminated sign advertising the sale or rental of the building on the premises not exceeding four (4) square feet in area.
 - 4. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
 - 5. On-site political signs not exceeding nine (9) square feet in display area. They are not permitted to be erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within five (5)days of the election.

**CHAPTER 12
DEVELOPMENT REQUIREMENTS**

SECTION 12.01 PRIVATE STREETS

Private Road Review and Development Process

- A. Private roads are permitted in all zoning districts subject to the design, construction, and maintenance standards of this Section.
- B. Private roads shall serve no more than fifteen (15) dwelling units.
- C. Private roads shall be approved by the Planning Commission through the site plan review process and shall include construction specifications for the road
- D. Design Standards for private roads shall meet the standards of the following table:

Lots or units served	3 - 15
Right of Way width	66 ft.
Width of traveled surface (centered within ROW)	22 ft.
Graded width	30 ft.
Base	Minimum, 4 inches of 98% compacted MDOT 22A aggregate
Maximum grade	7%

- E. Any lot created with frontage on both a public road and private road shall take driveway access off the private road.
- F. Regulation Michigan State Highway stop signs shall be positioned and installed in accordance with the Michigan State Manual of Uniform Traffic Control Devices on all private streets.
- G. The private road shall be constructed with such storm water runoff, culverts, and drainage contours as is required by the Village to ensure adequate drainage and runoff.
- H. Water and sewer easements shall be provided as part of the private road approval process.

- I. The private road shall be given a name and road signs shall be installed in accordance with the standards and approval of the Village. Private roads shall have a standard stop sign where the private road abuts any public road and/or where two or more private roads abut.
- J. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Village Engineer and any other agency having jurisdiction thereof.
- K. Cul-de-sac or dead end roads are strongly discouraged.
- L. Dwelling addresses shall be posted in a conspicuous place at the drive entrance of each parcel and at the entrance of the private road.
- M. All private roads shall have names approved by the proper Muskegon County office.
- N. All private roads shall be under the control of an approved and recorded road maintenance agreement and deed restrictions which provide for the perpetual maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. These documents shall be subject to review and approval by the Village Attorney and shall contain the following provisions:
 - 1. Method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
 - 2. A workable method of apportioning the costs of maintenance and improvements.
 - 3. An authorization that if repairs and maintenance are not made, the Village Council may exercise a special assessment district to bring the road up to the design standards specified in this Ordinance and assess owners of parcels on the private road for the improvements, plus an administrative fee.
 - 4. A notice that no public funds of the County or Village are to be used to build, repair or maintain the private road unless the special assessment district is created.
- O. All private roads shall be continuously maintained in a way that they are readily accessible to and usable by emergency vehicles in all types of weather.

SECTION 12.02 DUMPSTERS AND OUTDOOR TRASH CONTAINERS

- A. Outdoor trash containers or dumpsters exceeding eight (8) yards in any dimension shall be permitted only in the Nonresidential Districts and for multiple family uses, provided that they comply with this Section, except that these structures may be permitted for reasonable periods on any properties undergoing construction activities. The placement of the container shall be included in the submitted site plan. The Planning Commission may temporarily grant special use permit upon a hearing for larger dumpsters and construction dumpsters and Industrial Zones
- B. Adequate vehicular access shall be provided to the containers for truck pickup either via a public alley or vehicular access aisle that does not conflict with the use of off-street parking areas or entrances to or exits from main buildings.
- C. The container or containers, shall be maintained in a neat and orderly manner free from loose rubbish, wastepaper and other debris.
- D. All dumpsters shall be placed on poured concrete or any existing hardened paving system. All bulk waste containers which receive garbage, liquid waste or food from handling operations including, but not limited to bakeries, meat processing food plants or any business establishment where the Department of Inspection and Code Enforcement determines that garbage, liquid waste or food will be accumulated, shall have a raised concrete slab, a drain and cleaning water facilities for the receptacles and containers. The enclosures for said bulk waste containers shall include a drain and be designed and covered so that storm water does not enter the drain. The drain shall connect to sanitary sewage system and tie into the interceptor. If the Building Inspector and Planning Commission determine that tying into the drain is unfeasible due to location of the bulk waste container, then the Building Inspector may require the installation of an interceptor with a minimum capacity of forty (40) pounds for the container.
- E. A solid, ornamental screening wall or fence shall be provided around all sides of the containers. Materials are to match the main structure as approved by the Planning Commission. An access gate shall also be provided and be of the height that completely screens the containers. The maximum height of walls, fence or gate shall be six (6) feet.
- F. The container or containers, the screening walls, fence and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper and other debris.

- G.** The proper location of each bulk waste container and enclosure on each property will be determined by the Planning Commission and Building Inspector to include the following provisions:
1. The dumpster shall be located, within reason, to minimize conflicts with nearby dwellings;
 2. The dumpster shall not be located within 10 feet from the right-of-way of a street (not including an alley) nor within the right-of-way of any street;
 3. The dumpster shall not obstruct safe sight distances for traffic and pedestrians;
 4. The dumpster shall not obstruct view of traffic signs or street signs and shall not be located on a sidewalk;
 5. The dumpster shall not be located within 15 feet of a window or door of dwelling on another lot.
 6. Except in cases of hardship, and then only by special permit, bulk waste containers shall not be placed in the front yard area of the property. "Front yard area" is defined as the area from the front property line to the front building line. Restrictions for containers also apply to the side yard of a property which fronts a side street.
- H.** The Planning Commission shall determine if a hardship exists in locating bulk containers and enclosures, or complying with other provisions of this Chapter. The Planning Commission shall determine a feasible solution to the hardship, and shall not be limited to the solutions detailed in this section. Hardship examples could be defined as conditions and circumstances existing which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings; and the special conditions and circumstances do not result from the intentional actions of the applicant or any other person who may have or had interest in the property, and the strict adherence to the regulation for the property would result in a demonstrable hardship upon the owner as distinguished from mere inconvenience.
- I.** Containers and enclosures maybe located within or immediately adjacent to parking areas. Bulk waste containers shall not be placed in any required parking space designated and used in the calculation of a structure or building that the container is servicing. Applicants shall be permitted to reduce the width of existing parking spaces to no less than eight feet, six inches in width, and reduce the total number of spaces required, in cases of hardship and if shown to be necessary to

provide space for the bulk storage container and enclosure. For multi-family residential, the overall parking ratio shall not be reduced to less than one space for each dwelling unit.

- J.** Temporary placement of dumpsters, portable storage facilities and trash within public rights-of-way is prohibited. It shall be illegal for any person for any reason to place one or more dumpsters, portable storage facilities or trash in or upon any street or public grounds or upon private property without first having obtained permission from the Zoning Administrator
- K.** In the event of any emergency any dumpster, portable storage facility or trash may be removed by the Zoning Administrator or designated representative, and/or police or fire personnel. The Village of Fruitport shall not be liable for any loss or damage caused by such emergency removal.
- L.** Dumpster use restrictions:
 - 1. No hazardous material or organic waste shall be placed in a dumpster or portable storage facility. Any trash authorized for placement pursuant to this article shall not include hazardous material or organic waste.
 - 2. It shall be the responsibility of the property owner to maintain the dumpster or storage unit rodent, vermin or insects free.
 - 3. Any person who violates the restrictions set forth herein shall be personally liable for such actions. This liability is in addition to any criminal sanctions that may be imposed.

SECTION 12.03 GREENBELTS, BUFFERS AND LANDSCAPING

- A.** It is the intent of this ordinance to protect existing site vegetation as a means of retaining community character. Significant site vegetation, including landmark trees shall be protected as much as practical and noted for protection on the site plan. If existing plant material is labeled "to remain" on a site plan by the applicant or is required by the Village Planning Commission protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed prior to grading and construction activities. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved.
- B.** The purpose of greenbelts is to provide physical and visual separation between potentially incompatible uses.

1. A required greenbelt shall be a strip at least fifteen (15) feet in width. The greenbelt shall have a minimum of (1) evergreen tree, of at least five (5) feet in height for every ten (10) feet of length of the greenbelt. The greenbelt shall be situated to provide an effective sound and visual permanent buffer. Protected vegetation may be considered in lieu of the evergreen quota. The Planning Commission may alter plant material requirements or may require additional landscaping, berms, wall or a stockade fence in addition to the greenbelt area, in order to provide an effective screen.
 2. Greenbelt and landscaping materials shall contain groundcover and live materials. Pavement gravel or other hard surfaces are not considered landscaping.
 3. Any plant materials required as part of the greenbelt which die shall be replaced by the property owner.
- C. The Village may require a performance guarantee, per Section 16.04, to ensure the installation of required landscaping.
- D. For commercial uses the required front yard shall have a minimum of one (1) canopy tree of at least 1 ½ inches in diameter 4-feet off the ground for every ten (10) feet of frontage.
- E. Ornamentals, shrubbery and perennials shall also be creatively placed in setbacks (including the side and rear setbacks) to accentuate the site (not necessarily to serve as a buffer). Landscaping should be placed to:
1. Define cross-access easements, pedestrian ways and outdoor amenities like seating.
 2. Serve as windbreaks where warranted.
 3. Provide shade for parking areas.
 4. Break up large expanses of building walls without windows.
 5. Provide for long term viability (for example, so as not to block the view of on-site signs in the future).
- F. The owner or occupant of property that is required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced.

SECTION 12.04 LOCATION OF PARKING

The off-street parking required by this Chapter shall be provided in accordance with the following requirements.

- A. Multiple Dwellings. The off-street parking facilities for multi-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as defined elsewhere in this Chapter. In no event shall any uncovered parking space for any multiple-family dwelling be located nearer than ten (10) feet to any main building.
- B. Other Land Uses. The off-street parking required may be located on each site or in parking lots within three hundred (300) feet of and readily accessible to each site.
- C. Joint Use of Facilities. Provision of common parking facilities for several uses in the same vicinity is encouraged. Where businesses have alternate schedules the Planning Commission may permit reduced total parking provided a deferred parking area is reflected on the approved site plan.

SECTION 12.05 PARKING LOT REQUIREMENTS

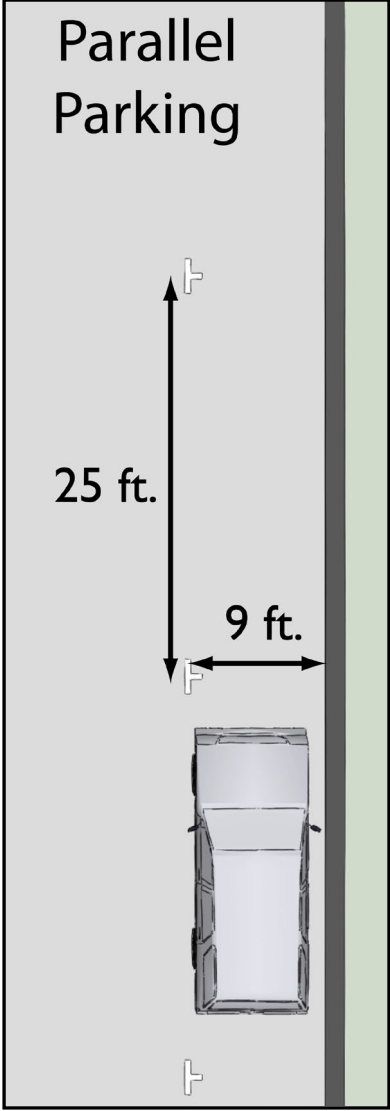
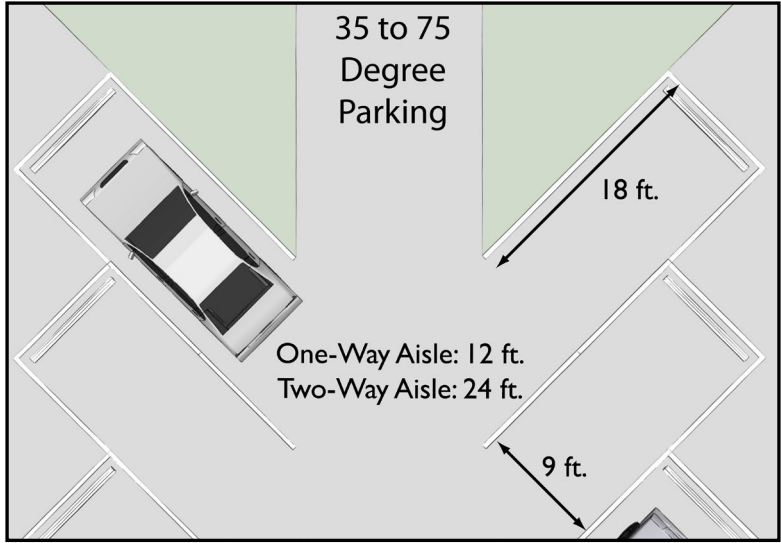
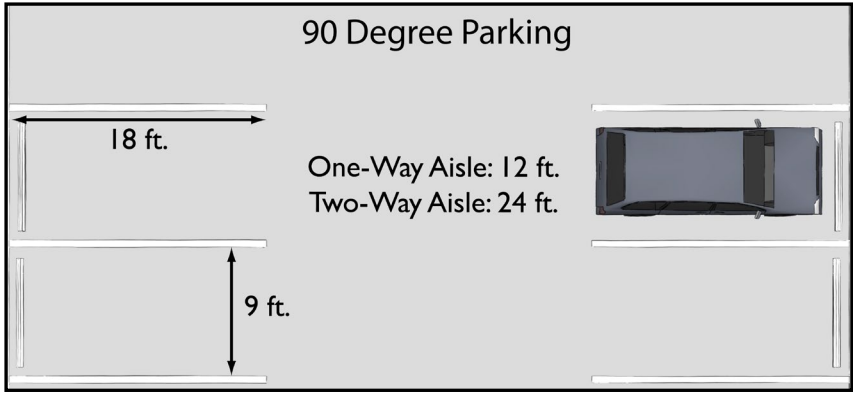
- A. All parking facilities, access driveways, and business parking areas shall be paved. Such facilities shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued, unless a performance guarantee has been submitted in accordance with the procedures of Section 16.04.
- B. Illumination for all parking lots and facilities Business districts, non-residential uses, and multiple family developments and shall meet the following standards
 - 1. All lighting shall be directed away from, and if necessary, shall be shielded to prevent the shedding of light onto adjacent properties or roadways.
 - 2. Light poles used to illuminate parking lots or storage areas shall be limited to twenty-five (25) feet in height.
 - 3. Lights used for canopies for uses such as vehicle service stations, drive-in establishments and other similar uses shall be completely recessed in the canopy structure and shall not extend lower than the underside surface of the canopy.

4. Lighting of parking areas, buildings, or structures shall be minimized to reduce light pollution and preserve the rural character of the Village.
 5. The source of illumination in all parking lots abutting a residential district or use shall not be higher than twenty-five (25) feet above the parking lot surface.
 6. No parking lot shall be illuminated by means of lighting attached to buildings or other structures that permit light to be directed horizontally.
- C. When a non-residential parking lot is situated on a parcel which adjoins, or is directly across a roadway from a Residential District, the parking lot shall be set back twenty-five (25) feet, excluding any drives, from the property line or right-of way line, unless a greater setback is required by any other provision of this Ordinance. Such yard shall contain a greenbelt, as specified in Section 12.03, abutting the parking lot and designed to effectively screen the parking from neighboring residential districts and uses.
 - D. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.
 - E. Wheel stops (parking bumpers) shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines, or over a sidewalk. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.
 - F. Plans for the layout of off-street parking facilities shall be in accordance with the parking space dimensions of this Ordinance. The minimum parking space dimensions for a layout not provided for in the regulations shall be ten (10) feet in width, eighteen (18) feet in length.
 - G. A portion of the required parking area may be deferred until some future date, provided that adequate space on the property is reserved for future parking, and provided that the reserved area is used as open landscaped space until parking is constructed. A permit shall be required prior to construction of a deferred parking area.

SECTION 12.06 PARKING LOT PLANS

- A. Plans for the development, expansion or reconfiguration of any parking lot must be submitted and approved, in conformance with the site plan review requirements of Chapter 13. See graphics following for required layout dimensions.

- B. The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance. Such construction shall be completed and approved by the Zoning Administrator before actual use of the property as a parking lot, and before a Certificate of Occupancy is issued.



SECTION 12.07 OFF-STREET LOADING REQUIREMENTS

- A. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the same lot with such building or addition;
 - 1. An area or means adequate for maneuvering and ingress and egress for delivery vehicles; and
 - 2. Off-street loading spaces in relation to floor areas as follows:
 - A. Up to twenty thousand (20,000) square feet = one (1) space required.
 - B. Twenty thousand (20,000) square feet or more, but less than fifty thousand (50,000) square feet = two (2) spaces required.
 - C. One (1) additional space for each additional fifty thousand (50,000) square feet or fraction thereof.
- B. Forecasted loading patterns, frequency, and procedures (estimated traffic pattern) shall be made available to the Zoning Administrator, Planning Commission, and Zoning Board of Appeals (when applicable) in the site plan.
- C. Loading spaces shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
- D. All loading spaces shall be at least ten (10) feet by fifty (50) feet, or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.
- E. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.
- F. All dedicated loading spaces shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless surface.

SECTION 12.08 DEFERRED PARKING

If an applicant demonstrates that the required amount of Parking Spaces is excessive, the Planning Commission may defer construction of a portion of the required Parking Spaces for nonresidential uses if the following conditions are met:

- A. Areas shown for deferred parking shall be shown on a site plan and shall be sufficiently large to permit the construction of the total number of Parking Spaces required by this Chapter. Such areas shall not be used for any other purpose required by this Ordinance and shall be kept open.
- B. Alterations to the deferred Parking Area to add Parking Spaces may be initiated by the owner or the Zoning Administrator based on parking needs. Parking Spaces shall be added in accordance with the approved site plan; further approval of the site plan shall not be required.
- C. Deferral of a portion of the otherwise required Parking Area shall not eliminate the need for the owner to comply with all other requirements of this Ordinance.

SECTION 12.09 MAXIMUM PARKING LIMITATIONS.

To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no parking Lot shall have parking spaces totaling more than an amount equal to ten percent (10%) greater than the minimum parking space requirements, except as may be approved by the Planning Commission pursuant to a parking need study submitted by the applicant.

CHAPTER 13 SITE PLAN REVIEW

SECTION 13.01 PURPOSE

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Village in order that the applicant may realize planned objectives in the use of land, as described in the Master Plan, and within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity.

SECTION 13.02 APPLICABILITY

In accordance with the provisions of this Chapter, the Planning Commission shall approve a site plan for the proposed development prior to the issuance of any permits for the creation of a use or the erection of a building in the districts and conditions cited below. The site plan packet shall include any associated documentation and narrative required to assist the reviewers with their task.

- A. All Permitted Uses within any of the following districts:
 - 1. MHC, Manufactured Housing Community
 - 2. Business District
- B. All Special Land Uses in any district.
- C. Multi-family developments
- D. Any residential development other than that exempted below.
- E. Site condominiums and subdivisions in any district.
- F. Planned unit developments in any district.
- G. Private Streets
- H. Essential Services
- I. The following shall be exempt from site plan review, except that the **Zoning Administrator** shall review a plan to ensure compliance with this Ordinance.

1. Single-family detached and two-family dwellings when permitted by right on a lot on which there exists no other building or use.
2. State licensed residential family care facilities and family day care homes.
3. Home occupations.
4. Accessory buildings.

SECTION 13.03 SITE PLAN SUBMITAL

A. Optional Preliminary Site Plan Review

1. Six (6) copies of a preliminary site plan may be submitted by the applicant for review by the Planning Commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
2. Additional Information. The Planning Commission, prior to granting final approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, traffic study, soil tests and other pertinent information.
3. Preliminary site plan submittal shall include the information listed below, unless deemed unnecessary by the Zoning Administrator. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1" = 100').

Site Plan Submission Requirements
For <i>both</i> Preliminary & Final Site Plan Review
1. A general location drawing showing at minimum, properties, streets and use of land within 1/2 mile of the area.
2. Legal description of the subject property.
3. North arrow, and plan scale.
4. Name and address of the property owner or petitioner.

Site Plan Submission Requirements	
5. Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared.	
6. Existing zoning and use of all properties abutting the subject property.	
7. All buildings, parking and driveways within 100 feet of all property lines.	
8. Existing and proposed uses, buildings and structures.	
9. Property lines and dimensions.	
10. Existing adjacent streets and proposed streets	
11. Parking lots and access points.	
12. General location of utilities, storm water management features, septic systems and wells	
13. Location of proposed buffer strips or screening.	
14. General topographical features at contour intervals no greater than 5 feet.	
15. Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, landmark trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.	
16. <u>Narrative:</u> Provide written text describing in general terms:	a. The overall objectives of the proposed development.
	b. Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, streets and drives, and open space.
	c. Dwelling unit densities by type, if applicable.
	d. Proposed method of providing sewer and water service, as well as other public and private utilities.
	e. Anticipated grading and filling and proposed method of storm water management.
Additional Information for <i>Final</i> Site Plan Review	
17. Seal, of the professional individual responsible for the preparation of the site plan.	
18. Property lines for each site condo unit or lot shown and dimensioned.	
19. Buildable area for proposed structures (i.e., setbacks shown) on the subject property for each lot or site condominium unit.	
20. Specifications for and location of existing and proposed utilities.	

Site Plan Submission Requirements
21. All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes serving the site and cross-sections of internal roads serving the development.
22. Location and specifications for curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
23. Location and size of all surface water drainage facilities including storm event data
24. All existing vegetation noted to be protected and a detailed landscaping plan including data on species, number and size of plant materials to be used.
25. Location of profiles of all proposed fencing and walls.
26. Location of all solid waste disposal facilities, including recycling, and screening.
27. Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
28. Dedicated open space, marked, described and a recordable form to protect such lands in perpetuity.
29. Exterior lighting showing area of illumination and indicating the type and height of fixture to be used.
30. Any signs not attached to the building(s).
31. Elevation drawings of proposed buildings.
32. Location and specifications for trails and sidewalks.
33. Development agreement (as appropriate).
34. Easement descriptions and dedications.
35. Approved road names (as appropriate).
36. Detailed landscape plan, including method of protecting existing vegetation , species listing and sizes for new landscaping materials, profile of proposed buffer strips, screening, fence design, and timing of landscaping improvements.

4. The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound

by any statements or indications of acceptance of the plan.

SECTION 13.04 ADMINISTRATIVE FEES

- A. Any Site Plan application shall be accompanied by a non-refundable fee in accordance with the schedule of fees established by the Village Council.
- B. Such fee shall be for the purpose of payment of the administrative costs and services expended by the Village in the implementation of this Chapter and the processing of the application. Such fee may also be used to reimburse another party retained by the Village to provide expert consultation and advice regarding the application. No part of such fee shall be refundable to the applicant.

SECTION 13.05 CHANGES IN THE APPROVED SITE PLAN

Changes to the approved site plan shall be permitted only under the following circumstances:

- A. The holder of an approved site plan shall notify in writing the Zoning Administrator of any proposed change to an approved site plan.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include only the following:
 - 1. Change in any building size, up to five percent (5%) in gross floor area.
 - 2. Movement of buildings or other structure by no more than ten (10) feet.
 - 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - 4. Changes in building materials to a comparable or higher quality.
 - 5. Changes in floor plans which do not alter the character of the use.
 - 6. Changes required or requested by the Village, the County Street Commission, or other County, State, or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan

amendment, and shall be reviewed in the same manner as the original application, including payment of an application fee. The previously approved site plan shall be provided to the Planning Commission for comparative purposes. Proposed changes shall be noted on the site plan or in narrative form.

SECTION 13.06 REVIEW STANDARDS

- A. The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them.
1. The uses proposed will not adversely affect the public health, safety, or general welfare.
 2. The site plan shall provide reasonable visual and sound privacy for all dwelling units located within and adjacent to a development. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
 3. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site:
 - a. Landmark trees and significant vegetation slated for protection shall be marked on site to prevent their damage during construction.
 - b. A plan for natural feature protection during construction shall be provided.
 - c. Utilities may be required to be placed underground.
 4. Provisions shall be made to accommodate storm water on-site wherever practical.
 - a. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
 - b. Direct discharge of storm water into surface waters is prohibited.

- c. Infiltration devices such as rain gardens are preferred over large retention basins.
5. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided within the site.
 - a. The minimum number of driveway points shall be provided at appropriate locations to maximize convenience and safety.
 - b. Paths, drives and streets shall be designed to promote safe and efficient traffic operations within and between developments.
 - c. The site shall be developed to create a pleasant, pedestrian paced atmosphere which de-emphasizes the automobile and considers rural character.
 - d. The Planning Commission may require traffic calming measures, paved road shoulders, and deceleration or turn lanes when necessary.
 - e. The Planning Commission may require shared driveways, cross access easements and pathway cross-connections between developments.
6. Site amenities like street trees, bike racks, benches and outdoor tables may be required by the Planning Commission.
7. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
8. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution. The site shall comply with the requirements of Section 12.07
9. All loading and unloading areas and outside storage areas, including areas for the storage of trash, shall be provided in accordance with Section 12.02
10. The general purposes and spirit of this Ordinance and the Master Plan of the Village shall be maintained.

SECTION 13.07 CONDITIONS OF APPROVAL

- A. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in their judgment may be necessary for protection of the public interest.
- B. Such conditions shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Zoning Act.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
- D. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
- E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.
- F. The Zoning Administrator may make periodic inspections of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.

SECTION 13.08 PERFORMANCE GUARANTEE

The Planning Commission may require a performance guarantee in accordance with Section 16.04 to insure compliance with any conditions associated with the granting of a site plan approval.

**CHAPTER 14
SPECIAL LAND USES**

SECTION 14.01 SCOPE

This Chapter provides a set of procedures and standards for special uses of land or structures, which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the Village of Fruitport. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, Special Land Uses shall conform to the specific standards cited in Section 14.07 as applicable.

SECTION 14.02 APPLICATION AND REVIEW PROCEDURES

- A. An application shall be submitted through the Zoning Administrator, accompanied by:
 - 1. The payment of a fee as established by the Village Council.
 - 2. A completed application form, as provided by the Village.
 - 3. Complete site plans as specified in Chapter 13.
 - 4. A written narrative describing the proposed use(s).
- B. Applications for a Special Land Use shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.
- C. The application, along with the required site plan, shall be forwarded to the Planning Commission at its next scheduled meeting.
- D. The Planning Commission shall hold a public hearing on the application, noticed in accordance with Section 14.04. The Planning Commission shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the Village's Zoning Administrator, engineer, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval.
- E. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted by the Zoning

Administrator after learning of new and significant facts or conditions which might result in favorable action upon re-submittal.

- F. A Special Land Use approved pursuant to this Chapter shall be valid for one (1) year from the date of approval. Each development shall be under construction within one (1) year after the date of approval of the Special Land Use, except as noted below.
 - 1. The Planning Commission may grant one (1) six (6) month extension of the approval, provided the applicant requests the extension prior to the date of the expiration of the Special Land Use approval.
 - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
 - 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.

- G. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the Special Land Use approval. Prior to revocation, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

SECTION 14.03 EXISTING SPECIAL LAND USES

Uses of land and/or development projects granted Special Land Use status by the Village prior to the adoption of this Zoning Ordinance may continue this status provided the rules, regulations, requirements, and conditions under which the Special Land Use was approved are met.

SECTION 14.04 GENERAL STANDARDS

- A. In addition to the standards established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in Section 13.07. Conditions, as authorized in Section 14.04, C, may be placed upon a Special Land Use.

- B. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use will:

1. 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 the use will not change the essential character of the area in which it is proposed.
 2. Be served adequately by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, and refuse disposal, water and sewage facilities.
 3. Not create excessive additional requirements at public cost for public facilities and services.
 4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.
- C. The Planning Commission may stipulate any additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with the conditions may result in the revocation of the Special Land Use approval, pursuant to Section 14.02-G. Conditions imposed shall be those necessary to ensure that the proposed Special Land Use will:
1. Meet the intent and purpose of the Zoning Ordinance.
 2. Relate to the standards established in the Ordinance for the land use or activity under consideration.
 3. Ensure compliance with those standards.
 4. Protect the general welfare.
 5. Protect individual property rights.
 6. Ensure that the intent and objectives of this Ordinance will be observed.

SECTION 14.05 PERFORMANCE GUARANTEE

The Planning Commission may require a performance guarantee in accordance with Section 16.04 to insure compliance with any conditions associated with the granting of a site plan approval.

SECTION 14.06 SPECIAL LAND USE SPECIFIC REQUIREMENTS

The general standards and requirements of Section 14.04, B, are basic to all Special Land Uses. The specific and detailed requirements set forth in Section 14.07 relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

SECTION 14.07 SPECIFIC STANDARDS

- A. Adult foster care, small and large group home
- B. Adult uses
- C. Banquet hall or conference center
- D. Bed and breakfast establishment
- E. Commercial "mini" storage warehouse
- F. Convalescent or nursing home
- G. Dance Studio
- H. Day care center
- I. Drive-through facilities (banks, credit unions, pharmacies, etc.)
- J. Drive-through restaurant
- K. Elderly Housing
- L. Elementary middle and high school (private)
- M. Fraternal or social club
- N. Funeral home and mortuary
- O. Laundromat
- P. Light Manufacturing
- Q. Open air business
- R. Place of religious worship
- S. Recreation facility (indoor)
- T. Vehicle Repair Facility
- U. Vehicle Sales
- V. Vehicle Service Station
- W. Vehicle Wash Facility
- X. Veterinary Clinics
- Y. Wireless Communication towers

SPECIFIC REQUIREMENTS BY USE:

A. Adult Foster Care, Small and Large Group Home.

1. Non-residential parking setback and screening provisions shall apply.
2. The facility shall be at least one thousand five hundred (1,500) feet from any other similar facility.

B. Adult Uses.

1. It is the intent of this subsection to provide regulations controlling those uses that are recognized as having serious, objectionable, operational characteristics inducing a deleterious impact on adjacent uses and areas. Special regulations of these uses are necessary to insure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood. Uses subject to these controls include but not limited to: Adult Bookstores, Adult Motion Picture Theaters, Massage Establishments, Nude Artist and Photography Studios, and Adult Cabarets, as herein defined.
2. For purposes of this subsection, the adult uses listed above shall have the meanings as noted in Chapter 2.02.
3. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval as provided herein. A Special Land Use for adult uses shall comply with the following requirements:
4. Adult use-principal, shall be located at least one thousand (1,000) lineal feet, as measured in a straight line from the closest point of the main entrance of the building within which the adult use-principal is located, to the property line of:
 - (a) Any residentially used or zoned property.
 - (b) Any licensed day-care center or facility.
 - (c) Any public or private educational facility classified as an elementary, junior high, or senior high school.
 - (d) Any hotel or motel.
 - (e) Any public park or trails system.

- (f) Any nursing home.
- (g) Any youth establishment.
- (h) Any religious institution or place of public assembly.
- (i) Another adult establishment.
- (j) No other accessory adult or adult use-principal shall be located in the same building or upon the same property as another adult use principal.
- (k) Adult uses shall not be allowed within five hundred (500) feet of another existing adult use.
- (l) In addition, any now existing retailer who is engaged in the sale and/or rental of books, periodicals, magazines, films, video tapes, CD-ROMS, DVDs, audiotapes, or other printed or pictorial material shall cover the front page of said books, periodicals, magazines, films, video tapes, CD-ROMS, DVDs, audiotapes, or other printed or pictorial materials or shall maintain a separate viewing and sales area for the rental and/or sale of said books, periodicals, magazines, films, video tapes, CD-ROMS, DVDs, audiotapes or other printed or pictorial materials as defined by this ordinance so as to prevent minors from viewing or entering said adult entertainment area.

5. All persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan, or have such other similar qualifications which must be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file

reports as may be required by the Village, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.

6. Any sign or signs proposed for the adult use business must comply with the requirements of the Village Sign Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
7. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that state:
 - (a) "Persons under the age of 18 years are not permitted to enter the premises."
 - (b) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
8. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.

9. The Planning Commission shall establish hours of operation to protect the character of the land uses in the vicinity. However, employees or other agents, or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, clean-up, preparation, record keeping, and similar purposes not involving the general public.
10. A buffer strip may be required to screen the business use from nearby residential or institutional properties. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use the applicable provisions of Section 12.03 when determining screening needs.
11. Application for Adult Use. The application for an Adult Use License shall be submitted on a form provided by Muskegon County and shall include:
 - (a) If the application is an individual: the name, residence, phone number, and birth date of the applicant shall be provided. If the applicant is a partnership: the names, residence, phone number and birth date of each general and limited partner shall be provided. If the applicant is a corporation: the name, residence, phone numbers, and birth dates of all persons holding more than five (5) percent of the issued outstanding stock of the corporation.
 - (b) The name, address, phone number and birth date of the operator and manager of such operation, if different from the owner/s/.
 - (c) The address and legal description of the parcel where the adult establishment is to be located.
 - (d) A statement detailing any misdemeanor, gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the

operation of an adult establishment of adult business by the applicant, operator and manager , and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community(s). In the case of a corporation, a statement detailing any misdemeanor, gross misdemeanor or felony convictions by the owners of more than five percent (5%) of the issued and outstanding stock of the corporation, and whether or not those property owners have ever applied for or held a license to operate a similar type of business in other community(s).

- (e) The activities and types of business to be conducted.
 - (f) The hours of operation.
 - (g) Provisions to be utilized to restrict access by minors.
 - (h) A building plan of the premises detailing all internal operations and activities.
12. To be approved, the use shall be deemed by the Planning Commission As compatible with other established and permitted uses in the vicinity.
 13. The applicant shall demonstrate that the proposed Adult Use will not constitute a nuisance to existing or future inhabitants or users of land near the use, or the Village in general.
 14. The facility shall not generate noise levels of more than sixty (60) decibels at the property line for a single-standing building, or forty five(45) decibels at the wall line of a facility located in a mixed use development or in facility otherwise attached to another building or enclosed space.
 15. The Planning Commission may require additional measures to abate nuisances associated with Adult Uses. The Planning Commission may establish standards to limit routine noise generated by the facility in addition to the standards of this Section, taking into account the nature of the facility, the

surrounding uses and zoning and the probable frequency of objectionable noise levels that may be generated by the use.

16. Adequate screening shall completely obscure the visibility of drop-off and pick-up areas of merchandise, employees, and patrons from any aspect of public view from any vantage point of the Village right-of-way.
17. The property owner must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least two (2) years after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to Muskegon County or the County's enforcement designee(s) upon request.

C. Banquet Hall or Conference Center

The facility shall be located with direct access to a paved street.

1. Minimum lot size shall be two (2) acres with a minimum of two hundred (200) feet of frontage.
2. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
3. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.

D. Bed and Breakfast Establishment.

1. The rooms utilized shall be part of a residential dwelling structure and do not involve alteration or construction not customarily found in dwellings.
2. A scaled floor plan of the premise shall be submitted as part of the application.
3. The bed and breakfast operation shall be the principal residence of the operator and the operator shall reside on the premises.
4. The bed and breakfast shall have eight (8) or fewer sleeping rooms, including sleeping rooms occupied by the operator.
5. Sufficient paved off-street parking must be provided for residential purposes, at the rate of one (1) parking space per guest sleeping room and two (2) spaces for the resident owner.
6. One (1) sign, not exceeding sixteen (16) square feet in area, is permitted. The placement and design of signs shall not detract from the scenic environment or contribute to general traffic hazards.
7. All refuse and/or trash containers shall be enclosed within a privacy fence or other suitable enclosure and shall not be located in the front yard.
8. The conduct of all aspects of activities related to the use shall take place only within the main building.
9. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.
10. No premises shall be utilized for a bed and breakfast operation unless there are at least two (2) exits to the outdoors from the premises. Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet.

11. The structure shall remain a residential structure and the kitchen shall not be remodeled into a commercial kitchen.
12. Meals shall be served only to residents and overnight guests.
13. No receptions, private parties or activities for which a fee is paid shall be permitted except for those that involve registered guests.
14. The maximum stay for any occupant of bed and breakfast operations shall be fourteen (14) consecutive days.
15. No guest room shall be located in a basement or cellar.

E. Commercial “Mini” Storage Warehouse.

1. The use shall be developed on lots of at least two (2) acres, but not more than five (5) acres in size. No more than sixty percent (60%) of the lot may be used for buildings, parking lots and access.
2. The lot shall abut and gain access from an arterial street.
3. A six (6) foot, solid fence of a material acceptable to the Planning Commission, shall enclose the area occupied by the use. The fence shall be set back at least thirty (30) feet from the front property line.
4. The front yard, up to the fence shall be landscaped in accordance with Section 12.03.
5. Minimum side and rear yards as specified for the District shall be maintained.
6. There shall be a minimum of thirty-five (35) feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, the building separation need only be twenty-five (25) feet.
7. Traffic direction and parking shall be designated by signs or painting.

8. The lot area used for parking and access shall be provided with a paved surface and shall be drained so as to dispose of all surface water.
9. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.

F. Convalescent or Nursing Home.

1. Minimum lot size shall be three (3) acres with at least two hundred (200) feet of frontage.
2. The lot location shall be such that at least one (1) property line abuts an arterial or collector street. The ingress and egress for off-street parking areas for guests and patients shall be directly from that thoroughfare.
3. Main and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.
4. The facility shall be designed to provide a minimum of five hundred (500) square feet of open space for every bed used or intended bed to be used. This open space shall include landscaping and may include off-street parking, driveways, required yard setbacks and accessory uses.
5. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

G. Dance Studio.

1. A facility designed, constructed, or used for instructional, practice or production purposes in graphic and performing arts, including sculpture, painting, music, photography, drama, dance, yoga and other similar pursuits.

2. The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.
3. To be approved, the use shall be deemed by the Planning Commission as compatible with other established and permitted uses in the vicinity.
4. The applicant shall demonstrate that the proposed studio for Performing or Graphic Arts will not constitute a nuisance to existing or future inhabitants or users of land near the use, or Village in general.
5. The facility shall not generate noise levels of more than sixty (60) decibels at the property line for a single- standing building, or forty five(45) decibels at the wall line of a facility located in a mixed use development or in a facility otherwise attached to another building or enclosed space.
6. The Planning Commission may require additional measures to abate nuisances associated with the Studio for Performing or Graphic Arts, including sound and odor transmission and significant traffic generation. The Planning Commission may establish standards to limit routine noise generated by the facility in addition to the standards of this Section, taking into account the nature of the facility, the surrounding uses and zoning and the probable frequency of objectionable noise levels that may be generated by the use. The Planning Commission may also require a traffic study.
7. Adequate drop-off and pick-up areas shall be provided when applicable.

H. Day Care Center.

1. Playground equipment shall not be located in a required side yard.
2. All outdoor play areas shall be a minimum of fifty (50) feet from a residential district and enclosed with fencing, a minimum of four (4) feet high which cannot be climbed.

3. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) vehicles in addition to the parking normally required for employees.
4. Activities associated with child care shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.
5. There shall be provided on the site a useable outdoor area at the rate of at least sixty-six (66) square feet for each child, or as required by the State of Michigan.

I. Drive-through Facilities (as part of another business), such as Banks, Credit Unions, Pharmacies, etc.

1. The accessory buildings shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line.
2. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
3. Where the site abuts a Residential District, screening shall be provided along that property line.
4. The site shall be designed to provide adequate stacking space.
5. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
6. Where the site abuts a Residential District screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.

J. Drive-through Restaurant.

1. Minimum lot size shall be one-half (1/2) acre with a frontage of at least one hundred and fifty feet (150) feet.
2. Sufficient stacking capacity shall be provided for the drive-through portion of the operation to ensure that traffic does not extend into the public right-of-way. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility. The stacking space requirement may be reduced by the Planning Commission based on the nature of the restaurant, provided sufficient reason is provided as to the reduction, but in no case shall fewer than six (6) spaces be provided.
3. In addition to parking and stacking space requirements, at least two (2) standing or parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
4. Setback areas shall be landscaped in accordance with Section 12.03.
5. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
6. Menu/speaker boards shall be provided that minimize verbal feedback. Speakers shall be located, positioned and controlled to minimize noise impacts.
7. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the restaurant, including measures to separate pedestrian and vehicular traffic in the areas nearest drive through windows.
8. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning

Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.

K. Elderly Housing

1. Minimum lot size shall be one (1) acre with a minimum of two thousand four hundred (2,400) square feet of lot area per dwelling unit (12 dwelling units per acre).
2. The number of dwelling units in an elderly housing project may exceed the twenty (20) units per building by no more than 50% (10 units per building) if the facility is licensed by the State of Michigan for nursing care or as a home for the aged. If the facility is not licensed by the State of Michigan the number of units may exceed twenty (20) units per building by no more than 25% (5 units per building).
3. All units in the building shall have a minimum of 450 square feet per unit.
4. A covered drop-off and pick-up area shall be provided on-site in close proximity to the main entrance.
5. Walkways shall be provided from the main building entrances to the sidewalk along the adjacent public or private street(s).

L. Elementary, Middle and High School (Private).

1. Minimum lot size shall be one (1) acre with at least one hundred and fifty (150) feet of frontage.
2. Maximum height of buildings shall not exceed thirty-five (35) feet.
3. Front and rear setbacks shall be at least equal to the height of the building. A side yard of at least twenty (20) feet is required on each side of any portion of the building.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring

fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.

M. Fraternal or Social Club.

1. The site shall have at least one (1) property line abutting a collector street.
2. All vehicular ingress and egress to the site shall be directly from a public thoroughfare, unless otherwise approved by the Planning Commission.
3. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.

N. Funeral Home and Mortuary.

1. Minimum lot area shall be one (1) acre with at least one hundred and fifty (150) feet of frontage.
2. A well-designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
3. A caretaker's residence may be provided within the main building.
4. The proposed site shall front upon a paved collector street. All ingress and egress shall be from that thoroughfare.
5. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

O. Laundromat.

1. Ingress and egress to the site shall be only from a paved arterial or collector street.
2. Parking shall be provided on site.
3. Arcade related uses are limited to three (3) machines.
4. An attendant shall be provided during hours of operation.

P. Light Manufacturing.

1. For purposes of this subsection, light manufacturing uses have the meanings as stated in Section 2.13.
2. The facility and property shall meet all Federal, State, and Local licensing requirements.
3. Hours of operation shall not have an adverse effect on adjoining areas and shall be subject to Planning Commission approval.
4. A minimum of fifteen (15) foot buffer zone shall be provided alongside lot lines that abut a Business District. A minimum of twenty five (25) foot buffer zone shall be provided alongside lot lines that abut a Residential District. Back property lines shall have a minimum of twenty five (25) buffer zone. Road frontage setback shall be a minimum of twenty five (25) feet.
5. Parking Lots on road frontages shall be a minimum of 10 feet setback, and no parking shall be within the required setbacks.
6. If the property abuts two or more streets, the setback applies to each street. Planning Commission shall use Section 12.03 when determining screening needs. Landscaping must be maintained to provide a healthy turf, control weeds and provide an appealing look.
7. Sidewalks or Bike Paths may be required and installed per Village Specifications.
8. All exterior lighting shall be erected and hooded so as to shield the glare of such lights from spilling onto adjacent property.
9. All refuse and/or trash containers shall be enclosed within a privacy fence or other suitable enclosure as approved by the Planning Commission and shall not be located in the front yard.

10. Minimum lot size shall be two (2) acres with a frontage of at least one hundred and fifty (150) feet.
11. There shall be a maximum of four overhead doors and or loading docks. No slide by doors are permitted. No outside storage of any kind.
12. Parking of commercial vehicles overnight is not permitted in the front of the building, with the exception of one company owned licensed operating vehicle.
13. All manufacturing activities shall be conducted wholly within a completely enclosed building, except for loading and unloading operations and on-site parking of vehicles.
14. No permitted activity shall emit noise that is readily discernible to the average person on any adjacent property. Nothing herein shall be interpreted to relieve the property owner or operator of the need to comply with all noise regulations of the Village.
15. Off street loading will be in accordance with Section 12.07.
16. Design Standard will be in accordance with Section 8.06.
17. The number of required Parking Spaces are to be determined by the Planning Commission with a minimum of 1.5 spaces per shifted employees and office staff. Consideration will be given to the number of shifts worked and the amount needed for a shift change. A business may dedicate and preserve green space for future parking if additional shifts or the number of employees increase.

Q. Open Air Business.

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and /or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. The Planning Commission may, to ensure strict compliance with any regulation contained herein and required as a condition of special land use approval, require the permittee to furnish a performance bond in accordance with Section 16.04.

5. The lot area used for parking shall be paved. Display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded so as to properly dispose of all surface water.
6. Ingress and egress shall be provided from a paved street and shall be at least one hundred (100) feet from an intersection.
7. All lighting shall be shielded from adjacent properties.
8. All loading activities and parking areas shall be provided on the same premises (off-street).
9. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
10. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.

R. Place of Religious Worship.

1. The facility shall be located on a minimum lot size of two (2) acres; plus an additional fifteen thousand (15,000) square feet for each (thirty (30) seating capacity or fraction thereof in excess of thirty (30) members.
2. The facility shall have a minimum of two hundred (200) feet of frontage and have direct access to a paved collector street.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the centerline of the intersection of any street or fifty (50) feet from any residential driveway.
4. The main and accessory buildings and structures shall not be located within fifty (50) feet of any Residential District.
5. Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling over the property line.

S. Recreation Facility (indoor).

1. The location, design, and operation of billiard halls, bowling centers, etc. with amusement machines shall not adversely affect the continued use, enjoyment, and development of adjacent properties.

T. Vehicle Repair Facility.

1. The minimum lot size shall be one-half ($\frac{1}{2}$) acre with a minimum of one hundred fifty (150) feet of frontage on an arterial street.
2. The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Muskegon and the Village of Fruitport.
3. The facility shall not generate noise levels of more than thirty (30) decibels at the property line for a single –standing building, or forty five(45) decibels at the wall line of a facility located in mixed use development or in a facility otherwise attached to another building or enclosed space.
4. All buildings, structures, and equipment shall be located at least twenty (20) feet from any right-of-way line, and not less than twenty (20) feet from any side or rear lot line.
5. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line. No drive shall be located nearer than seventy-five (75) feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
6. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building and all repair, servicing or other related activities shall take place within the building.
7. Parking and storage areas for disabled, wrecked, or partially dismantled vehicles awaiting repair shall be paved with asphalt or poured concrete, and parking of such vehicles shall not exceed a maximum of three (3) vehicles. This area shall be screened from the view of any abutting property. The Planning Commission shall approve the method of screening.
8. A landscaped, planted open space of a minimum of ten (10) feet in depth shall be provided along the full frontage of the site.

9. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight obscuring wall or fence. No outside storage area shall exceed an area of two hundred (200) square feet.
10. The rental of trucks, trailers, and any other vehicles on the premises shall not occupy required setbacks or parking areas.
11. All exterior lighting shall be erected and hooded so as to shield the glare of such lights from spilling onto adjacent property.
12. Where the site abuts a Residential District, a minimum twenty (20) foot buffer strip shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.03 when determining screening needs.
13. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.
14. Hours of operation shall not have an adverse effect on adjoining areas and be subject to Planning Commission review.
15. The use shall be supported by certain infrastructure features, including paved streets, natural gas, public water supply, and public sanitary sewer.
16. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.

U. Vehicle Sales.

1. The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Muskegon and the Village of Fruitport.
2. All buildings, structures, and equipment shall be located at least fifty (50) feet from any right-of-way line, and not less than thirty (30) feet from any side or rear lot line.
3. A landscaped, planted open space of a minimum of ten (10) feet in depth shall be provided along the full frontage of the site.

4. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line. No drive shall be located nearer than seventy-five (75) feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
5. The minimum lot width shall be two-hundred fifty (250) feet and the minimum lot area one (1) acre.
6. The Planning Commission may require a six (6) foot, solid wall or solid fence along a side or rear lot line abutting a Residential District.

V. Vehicle Service Station.

1. The lot shall be a minimum of three quarters (3/4) of an acre with a minimum frontage of one hundred and fifty (150) feet.
2. The lot shall have direct access to an arterial street.
3. Vehicle fuel stations and their accessory uses (except parking areas) and buildings shall be located not less than fifty (50) feet from any right-of-way line or from any side or rear lot line abutting a Residential District.
4. The Planning Commission may require a six (6) foot, solid wall or solid fence along a side or rear lot line abutting a Residential District.
5. Accessory vehicle related facilities located on the premises such as wash facilities, and vehicle repair are allowed, however, if required by this Ordinance, the uses must obtain separate Special Land Use approvals as provided for in this Chapter.
6. The site shall be limited to no more than one (1) driveway for each street on which it fronts.
7. All storage of material, merchandise and equipment shall be within the building.
8. Gasoline or other flammable mixtures shall not be used to wash down the premises.
9. In the event that a vehicle fuel station has been abandoned or not used as a vehicle fuel station for a period of more than one (1) year, any application to operate the premises as a vehicle

fuel station shall be considered as an application for a new vehicle fuel station.

- 10 .The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.

W. Vehicle Wash Facility.

1. The minimum lot are shall be one-half (1/2) acre with a minimum frontage of one hundred (100) feet.
2. The lot shall have immediate access to an arterial street.
3. Additional vehicle related facilities located on the premises such as motor vehicle service facilities are allowed, however, if required by this Ordinance, the uses must obtain separate Special Land Use approvals as provided for in this Chapter.
4. All washing activities must be within a building.
5. The vehicular exit from the building shall be at least seventy-five (75) feet from the driveway egress.
6. Wastewater shall be filtered or otherwise cleansed so as to minimize discharge of soap, wax and solid matter into the public sewer.
7. The site shall be limited to no more than one (1) driveway for each street on which it fronts.
8. Each wash bay shall be provided ample space for required stacking spaces that is not located within the public or private right-of-way and that does not conflict with vehicle maneuvering areas and does not conflict with other activities on the site such as gasoline pumps or vacuums.
9. A by-pass lane around the building is required for automated drive-through wash facilities.
10. No permitted activity shall emit noise that is readily discernible to the average person in any adjacent Residential District providing that air handling equipment in proper working condition deemed to comply with this

provision is located on a roof with intervening noise reduction baffles. Nothing herein shall be interpreted to relieve the property owner or operator of the need to comply with all noise regulations of the Village.

11. The minimum front yard setback for the structure shall be fifty (50) feet; minimum side yard setback shall be twenty-five (25) feet; minimum rear yard setback shall be fifty (50) feet.
12. The entrances and exits of the facility shall not be from an adjoining residential street or alley. A street or alley shall not be used as a maneuvering or parking area for vehicles using the facility.
13. The entire site, other than the portion occupied by the building and landscaping, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
14. There shall be no above-ground outdoor storage/dispensing tanks on the site.
15. When adjoining a Residential District, a six (6) foot high wall or fence shall be erected and maintained along the connecting interior lot line or other landscaping providing a six (6) foot high barrier may be approved by the Planning Commission pursuant to the requirements of Section 12.03.
16. All lighting shall be shielded from adjacent Residential Districts or uses.
17. The outdoor storage of trash or rubbish shall be screened in compliance with Section 12.03.
18. All washing activities shall be conducted within a completely, or partially enclosed structure, except one "tall" vehicle washing area is permitted.
19. Vacuuming activities shall be at least twenty-five (25) feet from any lot line except where the property abuts a Residential District in which case a fifty (50) foot separation shall be maintained.
20. All drains shall be connected to a public sanitary sewer system.

21 Outdoor storage is not permitted.

X. Veterinary Hospital and Veterinary Clinic.

1. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than one hundred (100) feet to any Residential District and shall not be located within any required yard area.
2. Outdoor runs, pens, and/or exercise areas that face residential districts shall be screened with a six (6) foot high fence. Suitable shade, including some natural vegetation shall be provided around these outdoor areas.
3. All indoor and outdoor hospital and clinic areas, runs, pens, and/or exercise areas shall be maintained to create safe and suitable environments for animals, including the daily elimination of animal waste.

Y. Wireless Communication Tower.

1. The lot size shall be a minimum of twenty thousand (20,000) square feet.
2. The tower shall be of a monopole design unless an alternative design can be presented that blends suitably with the Village landscape.
3. The tower shall be set back from all lot lines a minimum distance equal to one-half ($\frac{1}{2}$) the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the Zoning District.
4. Tower height shall not exceed one hundred and ninety-nine (199) feet in height.
5. A security fence at least six (6) feet in height shall be constructed around the tower and supports.
6. Where possible, joint use of tower facilities, including Village elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the Village. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.

7. Unless located on the same site or tower with another user, no new tower shall be erected within a one-half ($\frac{1}{2}$) mile radius of an existing radio, television, cellular, or wireless communications tower.
8. No signs, except warning or other cautionary signs shall be permitted on the site.

CHAPTER 15
ZONING BOARD OF APPEALS

SECTION 15.01 MEMBERSHIP AND PROCEDURES

- A. The Zoning Board of Appeals (ZBA) shall consist of three (3) members appointed by the Village Council, who shall serve terms of three (3) years, except for members who are also on the Planning Commission or Village Council, who shall serve only as long as they are members of those bodies.
- B. A member of the Planning Commission may be a member of the ZBA, while a member of the Village Council may be a member of the ZBA, and the remaining members selected and appointed by the Village Council from the electors of the Village. A Village Council member with the exception of the Village President, may be chairperson of the ZBA.
- C. Meetings shall be held at the call of the Chairperson, and at other times as the ZBA in its rules of procedure may specify. The Chairperson, or in their absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- D. All meetings of the ZBA shall be open to the public. The ZBA shall maintain a record of its proceedings, which shall be filed in the office of the Village Clerk, and shall be a public record.
- E. Alternates
 - 1. The Village Council may appoint up to two (2) alternate members for the same term as regular members of the ZBA.
 - 2. An alternate member may be called to sit as a regular member of the ZBA to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest.
 - 3. The alternate members of the Board of Appeals may be called to sit as regular members of the Board of Appeals, if a regular member is absent from one (1) or more meetings of the Board of Appeals. An alternate member may also be called to serve in the place of a regular member for reasons of conflict of interest.
 - 4. The alternate member having been called to serve on a case shall serve on that case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board of Appeals.

5. The records maintained by the Board of Appeals shall reflect the attendance and participation of an alternate member.

SECTION 15.02 INTERPRETATIONS

The Zoning Board of Appeals shall have the power to hear and decide, in accordance with the provisions of this Ordinance, applications for interpretations of this Ordinance, and may make decisions on any other questions on which the ZBA is authorized to pass. In exercising all of its powers, the ZBA shall apply the standards of this Section.

- A. Text Interpretations: The ZBA may hear and decide upon requests for the interpretation of the provisions of this Ordinance. In deciding text interpretations, the ZBA shall be governed by the following rules.
 1. Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.
 2. Interpretations shall give weight to practical interpretations by the Fruitport Village Council if applied consistently over a long period of time.
 3. Records shall be kept of all interpretations.
 4. Where the intent of this Ordinance is unclear and the facts cannot be read to support only one (1) interpretation, the benefit of doubt shall go to the property owner.
 5. Nothing contained in this Section shall be construed to give or grant to the ZBA the power or authority to alter or change the language of this Ordinance.
- B. Map Interpretations: When there is any question as to the location of any boundary line between Districts, upon a request for an interpretation of the zoning map, the ZBA shall establish the boundary based upon the map and all available information relating thereto and shall establish the boundaries to carry out the intent and purposes of this Ordinance and the Master Plan.

SECTION 15.03 APPEALS

- A. Upon application, the ZBA shall hear and decide appeals from and review any order, requirements, decision or determination made by the Village of Fruitport Council or other official or body charged with the administration of this Ordinance. Any person aggrieved, or any officer, department or board of the Village may make an appeal to the

- ZBA. The grounds of every appeal shall be stated in writing as part of the application.
- B. An application for appeal shall be filed within thirty (30) days after the date of the decision that is the basis of the appeal. The appellant must file a notice of appeal and a fee with the Village of Fruitport Clerk. The notice shall specify the nature and grounds of the appeal and the application fee be submitted in an amount as established by the Village Council from time to time.
 - C. The Village of Fruitport Clerk shall transmit to the ZBA and the Village of Fruitport Council all the papers constituting the record upon which the action being appealed was taken.
 - D. An appeal stays all proceedings from furthering the action being appealed unless the Village of Fruitport Council certifies to the ZBA that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court.
 - E. The ZBA shall fix a reasonable time for the hearing of the appeal, and give due notice to all property owners and occupants within three hundred (300) feet of the subject property via a letter sent first class mail within ten (10) days of the public hearing the time and place of the hearing. Any party may appear in person or by agent. A public hearing shall also be published in a newspaper of general circulation not less than fifteen (15) days before the public hearing.
 - F. Following the public hearing, the ZBA shall decide the matter within a reasonable time. The ZBA may reverse or affirm, wholly or partly, or may modify the order requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Village of Fruitport Council and may issue or direct the issuance of a permit.

SECTION 15.04 VARIANCES

- A. Non-Use (Dimensional) Variances: The ZBA may authorize upon written application in specific cases variances from the terms of this Ordinance where, owing to special conditions related to the applicant's property, a literal enforcement of the provisions of this Ordinance would result in a practical difficulty to the applicant. A variance from the terms of this Ordinance shall not be granted by the ZBA unless and until a written application for a variance is submitted and the ZBA finds:
 - 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply

generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:

- a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter; or
 - b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
 - c. By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
 - d. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.
2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
 3. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 5. The variance will not impair the intent and purpose of this Ordinance.
 6. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
 7. That the reasons set forth in the application justifies the granting of the variance and that the variance is the minimum variance necessary.

SECTION 15.05 APPLICATIONS AND HEARINGS

- A. Applications for variances shall be submitted to the Village of Fruitport Clerk who will review the application for completeness and validity, then transmit it to the Zoning Board of Appeals and Fruitport Village Council. Applications not meeting the requirements shall be returned to the applicant for completion.
- B. A valid application for a variance to the ZBA shall consist of the following:
 - 1. Six (6) copies of a site plan drawn to scale, which is sufficient to describe the nature of the request.
 - 2. A completed application form as provided by the Village.
 - 3. Payment of a fee, in accordance with a fee schedule, as determined by the Village Council from time to time.
 - 4. A legal description and/or parcel number of the entire property that is the subject of the request.
 - 5. A statement with regard to compliance with the standards of Section 15.04, as applicable.
 - 6. Other materials as may be required by the ZBA.

SECTION 15.06 DECISIONS OF THE ZBA

- A. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body or to decide in favor of the appellant on any matter. The ZBA shall render its decision upon any appeal or application submitted to it within a reasonable time after pertinent hearing and resolution via first class US mail.
- B. The ZBA may require a performance guarantee and/or impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision that they are required to make. Conditions shall be imposed in a manner in accordance with the Zoning Act and be related to the standards by which the decision is reached.
- C. All decisions of the ZBA shall become final at the entry of an order, or at the adoption of the minutes, unless the ZBA shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.

- D. For each decision of the ZBA a record shall be prepared including at a minimum, the following items:
1. Description of the applicant's request.
 2. The ZBA's motion and vote.
 3. A summary or transcription of all competent material and evidence presented at hearing; and,
 4. Any conditions attached to an affirmative decision.
- E. The decision of the ZBA shall be final. However, a person having an interest affected by the decision of the ZBA may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act. The court may affirm, reverse, or modify the decision of the ZBA, or may remand the decision to the ZBA for further hearings or action.
- F. Period of Validity

No variance granted by the ZBA shall be valid for a period longer than twelve (12) months, from the date of its issuance if not used. However the applicant may, upon written request, seek up to one (1) twelve (12) month extension of the variance from the ZBA. The ZBA may grant an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were reasonably beyond the control of the applicant.

SECTION 15.07 PERFORMANCE GUARANTEE

The Zoning Board of Appeals may require a performance guarantee in accordance with Section 16.04 to insure compliance with any conditions associated with the granting of a variance.

SECTION 15.08 RE-SUBMISSION

- A. No variance request which has been decided by the ZBA shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the ZBA finds that at least one of the following conditions exists:
1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
 2. There has been a material change in circumstances regarding the Planning Commission's or Zoning Boards of Appeals' findings of fact which occurred after the public hearing.
 3. The Village's legal counsel by written opinion states that in the legal counsel's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
 4. That the conditions involving all of the reasons for the original denial have been significantly altered; or
 5. That new conditions or circumstances exist which change the nature of the original request.

**CHAPTER 16
ADMINISTRATION**

SECTION 16.01 ADMINISTRATION AND ENFORCEMENT

- A. An administrative official who shall be known as the Zoning Administrator shall be designated by the Village Council to administer and enforce this Ordinance. The administrator may be provided with the assistance of other persons as the Village Council may direct.

- B. If the Zoning Administrator shall find any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

SECTION 16.02 ZONING ADMINISTRATOR DUTIES

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance.
 - 1. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a non-conforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance and issued a zoning compliance permit.

 - 2. The Zoning Administrator shall evaluate the structure, plans, specification and intended use of any structure that exceeds one hundred (100) square feet. Documented approval shall be provided once the Zoning Official has determined that such structure complies in all respects with this ordinance. Prior to this approval, it shall be unlawful to commence land clearing or excavation for the construction, relocation, or repair of any structure regulated by this ordinance.

 - 3. The Zoning Administrator shall not approve the issuance of a zoning permit if all final plans, development agreements, escrow fees and any required performance guarantees are not provided to the Village.

4. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Village of Fruitport Council and Planning Commission has inspected the plans in detail and found them in compliance with this Ordinance.
5. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance.
6. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with conditions imposed by this Ordinance and all other applicable Village, County, and State regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
7. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, Village Council, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
8. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.
9. The Zoning Administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in the Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
10. The Zoning Administrator shall have the authority to make inspections of buildings or premises necessary to carry out those duties in the enforcement of the Ordinance.
11. The Zoning Administrator may not make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties.
12. The Zoning Administrator shall require every application for a Building Permit for excavation, construction, moving, alteration or change in type of use or type of occupancy, be accompanied by a site plan prepared in accordance with specifications of Chapter 13.
13. If a proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this ordinance and in conformance with the

provisions of the building code, the Zoning Administrator shall permit a building permit to be issued, provided all other requirements for the permit are satisfied. If the Zoning Administrator does not approve an application for the permit, the reasons for the rejection shall be stated in writing on an appropriate form.

14. The Zoning Administrator may accept a preliminary application and a lesser number of submitted documents than those required by this Ordinance in situations where basic clarification is desired before proceeding with the further technical work; and the Zoning Administrator may on a preliminary submittal indicate tentative denial or tentative approval.

SECTION 16.03 SCHEDULE OF FEES, ESCROW CHARGES AND EXPENSES ESTABLISHED BY VILLAGE COUNCIL

- A. The Village Council shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for zoning compliance permits, Certificates of Occupancy, appeals, Special Land Uses, variances, site plan reviews, rezoning applications and other matters pertaining to this Ordinance. The schedule of fees shall be available in the office of the Zoning Administrator and Village Clerk and may be amended only by the Village Council upon annual review at the beginning of the fiscal year.
- B. An appropriate fee established by the Village Council shall accompany any application. Additionally, a separate deposit may be collected from the applicant, as determined by the Village Council, and used to reimburse another party retained by the Village to provide expert consultation and advice including but not limited to legal, planning and engineering professionals regarding the application. The amount of the deposit shall be based on a reasonable estimate to provide such services. Any unused portions of this fee shall be returned to the applicant after the Village of Fruitport has paid all costs for consultant services.

SECTION 16.04 PERFORMANCE GUARANTEE

- A. As a condition of approval of a site plan review, Special Land Use, or variance, or other approvals authorized by this Ordinance, the Village Council, Planning Commission, Zoning Board of Appeals, Zoning Administrator may require a performance guarantee of sufficient sum (not more than one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements) to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the

health, safety, and welfare of the public and of users or inhabitants of the proposed development.

- B. The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner:
 - 1. Prior to the issuance of a building permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Fruitport Village Council.
 - 2. The amount of the performance guarantee shall be not more than one hundred percent(100%) of the cost of purchasing of materials and installation of the required improvements, including the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
 - 3. The required performance guarantee shall be payable to the Village of Fruitport and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the Village.
 - 4. The Village of Fruitport Council and Zoning Administrator shall not sign off on the issuance of a zoning permit until all final plans, development agreements, escrow fees and any required performance guarantees are provided and approved.
 - 5. The Village Council, upon the written request of the obligor shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
 - 6. When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator, who will notify the Village Council of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.

7. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
8. The Village of Fruitport Clerk shall maintain a record of required performance guarantees.

SECTION 16.05 ZONING ORDINANCE AMENDMENTS

- A. Amendment to this Ordinance may be initiated by the Village Council on its own motion or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm or corporation filing an application therefore with the Village Council. The Planning Commission may, at its discretion, recommend amendments to this Ordinance to the Village Council for adoption.
- B. The following guidelines shall be considered by the Planning Commission, and may be used by the Village Council in consideration of amendments to the Zoning Ordinance:
 1. Text Amendment:
 - a. The proposed text amendment would clarify the intent of the Ordinance.
 - b. The proposed text amendment would correct an error in the Ordinance.
 - c. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
 - d. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
 - e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
 - f. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.

C. Amendment Procedure

1. Filing of Applications: All petitions for amendments to this Ordinance shall be in writing, signed and filed with twelve (12) copies provided to the Zoning Administrator, via the Village of Fruitport Clerk, who will forward them to the Planning Commission and Village Council.
2. All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
 - a. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
 - b. The nature and effect of the proposed amendment.
 - c. If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the Village, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting districts, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.
 - d. Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
 - e. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
3. The Zoning Administrator, after examining the submitted materials and approving the application as to form and content, shall refer the request to the Planning Commission for study and report to the Village Council.
4. Before submitting its recommendations of the petition to amend, the Planning Commission, in conjunction with the Village Council shall hold at least one (1) public hearing. Written notice of the meeting will be given to land owners and occupants three hundred (300) feet of the boundary of the property to be affected application. Notice shall be given in a newspaper of general circulation not less than fifteen (15) days prior to the public hearing. The notice shall include:

- a. The nature of the request.
 - b. The property(s) that are the subject of the request including a listing of all existing street addresses within property(s). If there are no addresses other means of identification may be used.
 - c. Location and time of the hearing.
 - d. Where and when written comments may be received.
5. The Planning Commission shall refer the proposed amendment to the Village Council along with its summary of the public - hearing and written recommendations for approval or disapproval and reasons therefore.
 6. Upon enactment, the Zoning Ordinance, as well as subsequent amendments or supplements, shall be filed with the Village Clerk, and one (1) notice of Ordinance adoption shall be published accordance with the requirements of the Zoning Act.
 7. Within seven (7) days after publication, the amendment to the zoning ordinance shall be filed in the Official Ordinance Book of the Village with a certification of the Village Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, the change shall be made on the within ten (10) days after enactment of the amendment.

SECTION 16.06 ENFORCEMENT

- A. No property, premise, lot, structure or use shall be used, erected or conducted in such a manner as to cause a nuisance to adjacent property or uses. Any structure, lot or use which violates a provision or this Zoning Ordinance shall be deemed to be a nuisance.
- B. Any building or structure which is erected, moved, placed, reconstructed, demolished, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance, per se.
- C. A violation of this Ordinance constitutes a civil infraction. Any person, who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this

Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction.

- D. For purposes of this Section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which the person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.
- E. The Village Council, or their duly authorized representative(s), is hereby charged with the duty of enforcing the Ordinance and are hereby empowered to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Muskegon County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the non-compliance or violation. And it is further provided that any person aggrieved or adversely affected by this noncompliance or violation may institute suit and/or join the Village in the suit to abate the same.
- F. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

SECTION 16.07 ZONING COMPLIANCE PERMIT

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits after approval of the Village of Fruitport Council in accordance with the requirements of this Ordinance.
- B. The permit issued by the Zoning Administrator is required before any entity is allowed to begin a new residential or commercial building/addition/operation in the Village. The Zoning Compliance Permit may be applied for through the Zoning Administrator and, if granted, is valid for one year. One extension of a Zoning Compliance Permit for one additional year may be allowed. A second and final extension of a Zoning Compliance Permit may be granted if 75% of the overall project is proven to be completed.
- C. In addition to a Zoning Compliance permit other permits may be required by various county, state and federal entities, copies of which may be required for the property files by the Zoning Administrator or Building Inspector. Such permits include, but may not be limited to:
 - 1. Septic System Permit from the Department of Public Health;

2. Soil Erosion and Sedimentation Control permit;
 3. Electrical, mechanical and plumbing permits;
 4. Michigan Department of Natural Resources and Environment Permit for wetland, floodplain or lakefront modifications.
- D. Depending on the project, type of development and/or other factors, proof of various inspections and/or certifications of approval and/or completion may also required for the record by the Village.
- E. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a non-conforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance and has issued a zoning compliance permit.
- F. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, exceeding one hundred (100) square feet in floor area, until the Zoning Administrator has given documented approval of his opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this Ordinance.
- G. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance.
- H. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance.
- I. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with conditions imposed by this Ordinance and all other applicable Village, County, and State regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- J. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, Village Council, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.

- K. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.

SECTION 16.08 STOP WORK ORDER

- A. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.
- B. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this Ordinance.

SECTION 16.09 SEVERABILITY CLAUSE

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 16.10 EFFECTIVE DATE

- A. The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective immediately upon publication of a "Notice of Ordinance Adoption" in a newspaper circulating within the Village of Fruitport. Publication shall be preceded by a public hearing and by approval of the Fruitport Village Council, in that order.
- B. This amended Zoning Ordinance shall become effective on the 3rd day of December 2019.

I, Ann LaCroix, the duly appointed clerk for Village of Fruitport, do hereby certify that the foregoing zoning ordinance and Zoning Map was duly adopted at a regular meeting of the Fruitport Village Council on November 18^h, 2019.