

# **VILLAGE OF BALDWIN ZONING ORDINANCE ORDINANCE NO. 05-2014**

## **September 2014**

**As Amended:**

**April 8, 2019, March 8, 2021, July 12, 2021, October 11, 2021, May 5, 2022, March 13, 2023,  
August 14, 2023, October 9, 2023, December 11, 2023**

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# **VILLAGE OF BALDWIN**

## **ZONING ORDINANCE**

### **ARTICLE 1**

#### **PREAMBLE, SHORT TITLE, and INTENT**

##### **1.01 PREAMBLE**

An ordinance enacted by the Village of Baldwin under Act 207 of the Public Acts of 1921. As amended, to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated; to provide for the location, the size, and the types of land uses; to provide for the maximum number of families that may be housed in dwellings, buildings, and structures; to provide for the administration and amendment of this Ordinance; to provide for the organization of, and procedures to be followed by, the Zoning Board of Appeals; and to provide for penalties for the violation of this Ordinance.

##### **1.02 SHORT TITLE**

This Ordinance shall be known and cited as the "Village of Baldwin Zoning Ordinance," Ordinance # 102014.

##### **1.03 INTENT**

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



## ARTICLE 2

### DEFINITIONS

#### 2.01 CONSTRUCTION OF LANGUAGE

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

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

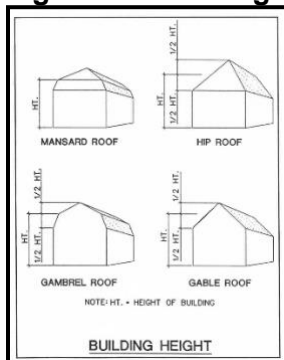
#### 2.02 DEFINITIONS

- 1) Accessory Building: A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building, not used for human habitation.
- 2) Accessory Use: A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.
- 3) Adult Entertainment Facility: An establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein. Also, an establishment having as a substantial or significant portion of its stock in trade, items, videotapes, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, showing, displaying, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or an establishment with a segment or section devoted to the sale or display of such material. Also, any building, structure, premises, or part thereof wherein there is activity that includes the providing of models to display "specified anatomical areas" as defined herein for artists and photographers for a fee or charge. Also, eating or drinking establishment that features topless servers, go-go dancers, erotic dancers,

strippers, male or female impersonators, or similar entertainers displaying "specified anatomical areas."

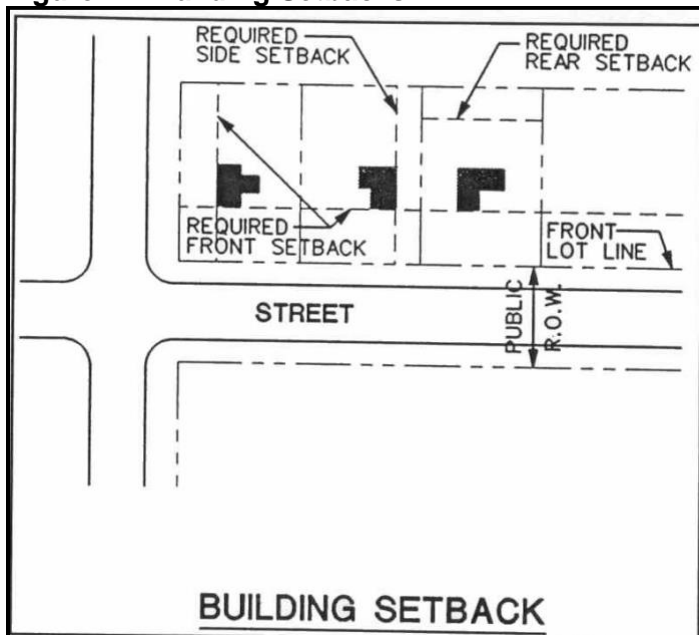
- 4) Alley: A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.
- 5) Alteration: Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams, or girders; or any change which may be referred to herein as "altered" or "reconstructed".
- 6) Apartment: A room or suite of rooms, including bath and kitchen facilities, in a duplex or multiple-family dwelling intended and designed for use as a residence by a single family.
- 7) Apartment House: (See dwelling, multiple family)
- 8) Automobile Salvage Yard: Any parcel of land used for the purpose of selling, exchanging, or dealing in motor vehicle parts which requires a license from the Secretary of State pursuant to Act 300 of the Public Acts of 1949, as amended, specifically those operating defined as used vehicle parts dealer, a vehicle salvage pool, or a vehicle scrap metal processor.
- 9) Basement (or cellar): That portion of a building, which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story.
- 10) Berm: A man-made, formed, earth mound of definite height and width used for obscuring the view between adjacent parcels; the intent of which is to provide a transition between uses of differing intensity.
- 11) Buffer Yard: A ten (10) foot strip of land, including interlocking trees, foliage, or other appropriate ground cover which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them. The maintenance of the area shall be a continuing obligation of the owner of said area.
- 12) Building: Any structure having a roof supported by columns or walls, for the shelter, support, enclosure of persons, animals, or property.
- 13) Building Height: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line for mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall (see Figure 2.1).

**Figure 2.1 Building Height**



- 14) **Building Lines:** The lines defining the minimum front, side, and rear yard requirements outside of which no building or structure may be located (see Figure 2.2).

**Figure 2.2 Building Setbacks**



- 15) **Building, Principal:** A building in which is conducted the main or principal use of the lot on which it is located.
- 16) **Carport:** A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.
- 17) **Change of Use:** A use of a building, structure, or parcel of land, or portion thereof, which is different from the previous use, in the way it is classified in this Ordinance or in the Uniform Construction Code/ as amended.
- 18) **Church:** A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship/

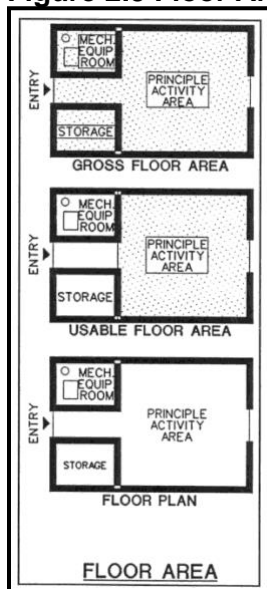
together with all accessory buildings and uses customarily associated with such principal use.

- 19) Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture, or similar activities, but not operated for profit and open to members and not the public.
- 20) Commercial Garage: A building, structure, or parcel of land, or any portion thereof, used for general repairs/engine rebuilding, rebuilding or reconditioning of motor vehicles/collision service such as body, frame, or fender straightening and repair; and painting and undercoating of motor vehicles when operated as a business and not necessarily required to be registered as a Motor Vehicle Repair Facility pursuant to Act 300 of the Public Acts of 1974, as amended
- 21) Community Service Installation: A community service installation is a public or private utility installation or communications equipment (licensed by the Federal Communications Commission) including water towers, pumping stations, transformer stations, substations, gas regulator stations, microwave transmission towers, high voltage electrical transmission equipment, and accessories necessary to provide needed community facilities and services.
- 22) Condominium: A dwelling unit and the space enclosed by the description thereof as contained in the master deed for the complex or project, established in conformance with the provisions of the Horizontal Real Property Act, Act 229 of the Public Acts of 1963, as amended.
- 23) Conversion of single-family dwelling: The conversion of a single-family dwelling into multiple dwellings.
- 24) Coverage: That percent of the plot or lot covered by the building area.
- 25) Density: The number of dwelling units situated on or to be developed on a net acre of land.
- 26) District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.
- 27) Driveway: A private path or roadway over which an automobile may be driven that provides access to a public thoroughfare.
- 28) Dwelling: Any building/ or portion thereof, which is designed or used exclusively for residential purposes.
- 29) Dwelling, Duplex: A building containing two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in the above definition of "dwelling, single-family", except that specified storage space and entrances shall be provided for each dwelling unit.
- 30) Dwelling, Multiple-Family: A building containing three or more dwelling units designed for residential use for three or more families living independently of each other.

- 31) Dwelling, Row House, or Townhouse: Three (3) or more one-family dwelling units, each having access on the first floor to the ground and with common walls separating the dwelling units.
- 32) Dwelling, Single-Family: A site-built or manufactured detached building or portion thereof designed and used exclusively as the home, residence, or sleeping place of one family. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Garage space, whether attached or detached shall not be considered as part of a dwelling for meeting area requirements.
- 33) Dwelling Unit: One or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking, and sleeping purposes.
- 34) Earth Sheltered Home: A dwelling, which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.
- 35) Easement, Permanent Recorded: A grant of one or more property rights from a property owner to another person, which is permanent and appurtenant to the land and is recorded in the office of the Lake County Register of Deeds.
- 36) Educational Services and Institutional Structures and Uses: Churches, schools (teaching academic subjects), hospitals, convalescent or nursing homes, public parks, civic centers, libraries and other public or quasi-public uses.
- 37) Erected: The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building, including excavations, fill, drainage, and the like, in preparation for or part of erection.
- 38) Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but general public health, safety, convenience, or welfare, but not including office buildings, substations, or structures which are enclosures or shelters for service equipment, or maintenance depots.
- 39) Excavation: Any breaking of ground, except common household gardening and ground care.
- 40) Family: An individual, or two or more persons related by blood, marriage or adoption, or parents, along with their direct lineal descendants, and adopted or foster children (including domestic employees) or a group not to exceed four (4) persons not related by blood or marriage, occupying a premises, and living as a single housekeeping unit with single cooking facilities. Said definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

- 41) Fence: An artificially constructed barrier of wood, metal, stone, or any manufactured materials erected for the enclosure of yard areas.
- 42) Filling: The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.
- 43) Floodplain or Flooding: Normally dry land areas, which temporarily experience partial or complete inundation from:
  - a) The overflow of inland waters onto land adjoining the channel of a river stream, watercourse, lake, or other body of water.
  - b) The unusual and rapid accumulation or runoff of surface water.
- 44) Floor Area: The sum of the horizontal areas of the floor of a building or dwelling unit, measured from the exterior face of exterior walls, or from the centerline of walls separating dwelling units, unless defined elsewhere in this Ordinance (see Figure 2.3).
  - a) Gross Floor Area (GFA): The term "gross floor area" shall mean the area measured from the exterior faces of exterior walls for each floor of a building. For a single-story building, gross floor area is sometimes referred to as the building footprint.

**Figure 2.3 Floor Area**



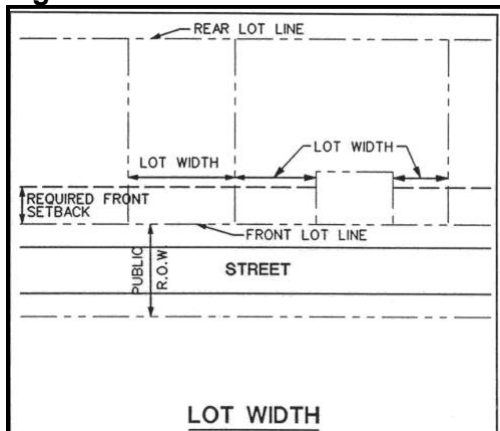
- b) Net Floor Area (NFA): The term "net floor area" as applied to offices, merchandising, or service types of uses, shall mean the floor area used or intended to be used for services to the public, including those areas occupied for fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing of mechanical equipment integral with the building, maintenance facilities, or those areas where customers, patients, clients, salesmen, and the general public are denied access. Net floor area shall be measured from the

interior walls.

45) Footing: That portion of the foundation of a structure, which spreads and transmits loads directly to the soil or the pilings.

46) Frontage: The total continuous length of the front lot line along a public thoroughfare.

**Figure 2.4 Lot Widths**



47) Garage, Parking: A structure or series of structures for the temporary storage or parking of motor vehicles, having no public shop or service connected therewith.

48) Garage, Private: An accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles, boats, house trailers, snowmobiles, and similar vehicles owned and used by the occupants of the building to which it is accessory.

49) Gasoline Service Station: A structure, building, or parcel of land, or any portion thereof used for the retail dispensing or sale of vehicular fuels or other flammable fuels and including minor repair services as defined in R257.111, Michigan Administrative Code, as amended. For the purpose of this Ordinance, this term shall also mean any area or structure used or designed for polishing, greasing, washing, dry cleaning, spraying (but not including painting), or otherwise cleaning or servicing such motor vehicles.

50) Grade: The elevation (s) of the finished surface of ground after the development, filling, or excavation of a parcel of land. For the purpose of controlling the number of stories and the height of any structure, the grade shall be determined by the level of ground adjacent to the walls of that structure if the grade is uniform. If the grade is not uniform, the grade shall be determined by averaging the elevation of the ground for each face of the structure as determined in the Uniform Michigan Residential and Building Codes.

51) Group Childcare Home (seven to twelve (7-12) children): A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group Childcare Home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.

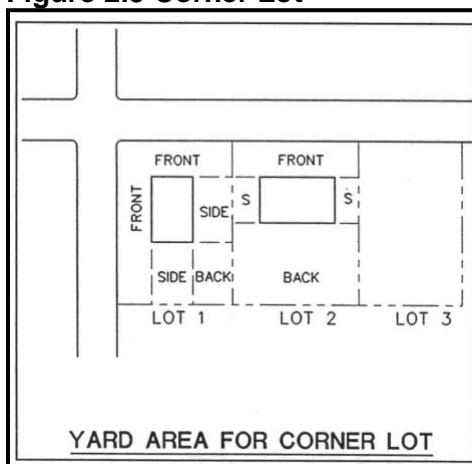
- 52) Hazardous Materials: Any material that, because of its quantity, concentration, or physical or chemical characteristics, may pose a real hazard to human health or the environment. Hazardous materials include the following categories: Flammable and Combustible Material, Toxic Material, Corrosive Material, Oxidizers, Aerosols, Compressed Gases, mercury, asbestos, propellants, bulk fuels, ammunition, medical waste, and chemical, biological, and radiological materials.
- 53) Habitable Space: Space in a dwelling unit, or structure, used for living, sleeping, eating, cooking, or otherwise conducting activities directly related to the structure's principal use, which is equipped with means of egress, light, and ventilation facilities in accordance with applicable construction codes. Bathrooms, toilet compartments, halls, and closets are not considered habitable space.
- 54) Home Occupation: Any use carried on by the inhabitants of a dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes.
- 55) Household Pets: Any animal kept for companionship, personal enjoyment, and pleasure, and treated with fondness that is customarily kept within a dwelling. Household pets are commonly purchased in a pet store and have been tamed or domesticated and are not likely to bite, attack, or cause death, maiming, or illness or act in a vicious manner toward humans without provocation. Household pets are limited to such animals as dogs, cats, fish, birds, rodents, lizards, non-venomous snakes, non-venomous spiders, and other similar animals regarded as household pets.
- 56) Inoperable or Abandoned Motor Vehicle: Any wheeled vehicle which is self-propelled and intended to be self-propelled, and which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.
- 57) Junk: For the purpose of this Ordinance, the term "junk" shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing, scrap metal, or other scrap materials that are damaged or deteriorated.
- 58) Junk Yard: Any land or building used for abandonment, storage, keeping, collecting, or bailing of paper, rags, scrap metal, other scrap, or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running conditions, or machinery or parts thereof.
- 59) Kennel, Commercial: Any lot or premises used for the commercial sale, boarding, or treatment of dogs, cats, or other domestic pets.
- 60) Land Use Plan: The Village of Baldwin Land Use Plan which fulfills the intent of the Zoning Plan pursuant to Act 207 of the Public Acts of 1921, as amended, or, which fulfills the intent of the Master Plan pursuant to Act 285 of the Public Acts of 1931, as amended, at such time if and when the Village of Baldwin Land Use Plan is adopted pursuant to Act 285 of the Public Acts of 1931. The Land Use Plan is the Village's statement of policy for a desirable physical pattern for future community development. The plan consists of a series of maps, charts, and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical, and efficient manner, thereby creating the very best community living conditions.
- 61) Loading Space: An off-street space on the same lot with a building, or group of buildings,



for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

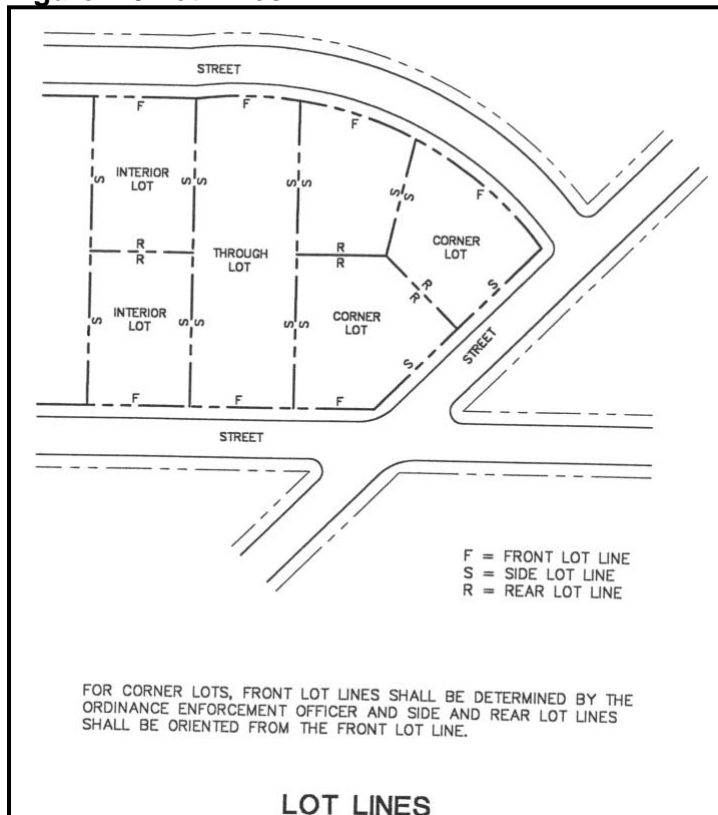
- 62) Lot: Land occupied or to be occupied by a building, structure, land use, or group of buildings, together with such open spaces or yards as are required under this Ordinance and having its principal frontage upon a public thoroughfare.
- 63) Lot Area: The total horizontal area within the lot lines of a lot.
- 64) Lot, Corner: A lot, which has at least two contiguous sides abutting upon a public street for their full length. A side lot line separating a lot from a street is a front lot line (see Figure 2.5).

**Figure 2.5 Corner Lot**



- 65) Lot, Depth of: The average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the sidelines of the lot.
- 66) Lot, Interior: A lot other than a corner lot.
- 67) Lot Line(s): Any of the lines bounding a lot as defined herein (see Figure 2.6).
- a) Front Lot Line: In the case of an interior lot, it is that line separating said lot from the public street right-of-way. In the case of a through lot, it is that line separating said lot from either street. In the case of a corner lot, the shorter street line shall be considered the front lot line, except in the case of both street lines being equal; the choice may be made at the discretion of the property owner. Once declared and so indicated on the Building Permit application, the designated front lot line shall remain as such.
- b) Rear Lot Line: That lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet in length, lying farthest from the front lot line and within the lot.
- c) Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot, or lots is an interior side lot line.

**Figure 2.6 Lot Lines**



- 68) Lot of Record: Any lot in a single ownership which ownership was of record at the time of the adoption of this Ordinance, which does not meet the requirements of this Ordinance for lot area, and a lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds, Lake County, Michigan, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the Office of the Register of Deeds, Lake County, Michigan, prior to the adoption of this Ordinance.
- 69) Lot, Through: A double frontage lot, not a corner lot, having a street for both front and rear lot lines.
- 70) Major Thoroughfare: A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which has been classified as Lake County Primary, State Trunk line, U.S. Trunk line, or similar village designation.
- 71) Minor or Local Street: A public way, the principal use or function of which is to provide

access to abutting lands.

- 72) Manufactured Housing: A moveable or portable dwelling that is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for year-round living as a single-family dwelling. The term "Manufactured Housing" shall not include pick-up campers, travel trailers, motor homes, converted buses, tent trailers, or other transportable structures designed for temporary use.
- 73) Manufactured Housing Community: A Manufactured Housing Community is a Manufactured Housing Community or a Manufactured Housing condominium development subject to the provisions of Act 419 of the Public Acts of 1976, as amended.
- 74) Maximum Lot Coverage: The percentage of a parcel covered by impervious surfaces including asphalt, concrete, pavers, buildings, etc.
- 75) Modular (Pre-Manufactured) Housing Unit: A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling and meeting all codes and regulations applicable to conventional site-built single-family home construction.
- 76) Motel: A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" shall include buildings designated as "auto courts", "tourist courts", "motor courts", "motor hotel", and similar appellations, which are designed as integrated units of individual rooms under common ownership.
- 77) Multiple Commercial Facilities: Two or more commercial establishments or group of businesses that provide a variety of merchandise and/or services occurring within a single structure that requires a location on a major road and a large parking area to accommodate vehicular traffic. Such a center may be a small neighborhood center, a discount store, or a mall, though this does not limit such use to be one or any of these.
- 78) Municipal Water Supply: A water supply system owned by a village, township, charter township, city, county, the State of Michigan, or an authority or commission comprised of these governmental units.
- 79) Nonconforming Structure: A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement, or yards for the zoning district in which it is located.
- 80) Nonconforming Use: A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated.
- 81) Nuisance: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or

things such as:

- a) Noise
- b) Dust
- c) Smoke
- d) Odor
- e) Glare
- f) Fumes
- g) Flashes
- h) Vibration
- i) Objectionable effluent
- j) Noise of a congregation of people, particularly at night
- k) Passing traffic
- l) Invasion of street frontage by traffic generated from an adjacent land use, which lacks sufficient parking and circulation facilities.

82) Nuisance, Attractive: A use, practice, structure, or statement of the doctrine of attractive nuisance according to "Restatement of Torts, 2d 339, p 167; 76 Mich. App. 137 - June 1977".

83) Nursery School (Day-Care Center): A public or private school, kindergarten, or childcare facility wherein day-care, or day-care and education is provided for five (5) or more minors.

84) Nursing Home: An installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

85) Off-site advertising sign: A sign not accessory to a use on the premises on which the sign is located, and which displays advertising content that does not advertise a use on the premises on which the sign is located.

86) Open Space, Common: Open space, which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

87) Open Space, Required: The yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied, and unobstructed by any structure or any part thereof, except as otherwise provided in this Ordinance.

88) Ordinary High Water Mark: The ordinary high-water mark or average high-water mark, is the

high-water mark that can be expected to be produced by a body of water in non-flood conditions.

- 89) Owner: The owner of the premises or lesser estate in the premises, a mortgage or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.
- 90) Parcel: A parcel shall consist of a lot or combination of lots, or a legally described land area that is used as a single building site and is included as a single unit for purposes of property taxation.
- 91) Park: A parcel of land, building, or structure used for recreational purposes including both not limited to playgrounds, sport fields; game courts, beaches, trails, picnicking areas, and leisure time activities.
- 92) Parking Garage: A structure; building, or parcel of land, or any portion thereof used for the storage or parking of motor vehicles, or boats operated as a business, and excluding minor and major repair services as defined in R257.111, Michigan Administrative Code, as amended.
- 93) Parking Space: An area of not less than eighteen (18) feet in length and nine (9) feet in width; exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for parking of permitted vehicles.
- 94) Planned Unit Development: A tract of land developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved Site Plan, which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space, and other land uses.
- 95) Planning Commission: The Village Council of the Village of Baldwin acting as the Zoning Commission in accordance with Act 207 of the Public Acts of 1921, as amended; or the Planning Commission of the Village of Baldwin at such time if and when a Planning Commission is established in accordance with Act 285 of the Public Acts of 1931, as amended.
- 96) Principal Structure: The building or structure that contains the main use for which the premises exist.
- 97) Principal Use: The main use to which the premises are devoted and the principal use for which the premises exist.
- 98) Private Recreation Area: A private recreation area includes a parcel of land used for recreation on a commercial basis, such as miniature golf courses and golf driving ranges.
- 99) Private Sanitary Sewage Disposal System: An individual on-site sewage disposal system as defined in the Lake County Health Department Sanitary Code.
- 100) Private Water Supply: A well or other water supply system approved by the Lake County Health Department pursuant to Part 127 of Act 368 of the Public Acts of 1978, as

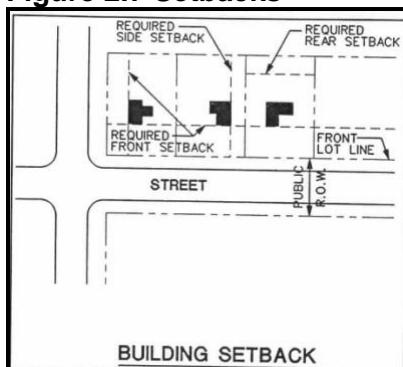
amended.

- 101) Prohibited Use: A use of land, which is not permitted within a particular land development district.
- 102) Public Sanitary Sewer: A system of pipe owned and maintained by a governmental unit used to carry human, organic, and industrial waste from the point of origin to a point of discharge.
- 103) Public Service Facility: A public facility is a facility under the operational control of governmental unit, specifically a township, city, village, county, state, the United States government, or some combination of governmental units including but not limited to, offices, libraries, museums, halls, post offices, courts, civic centers.
- 104) Public Utility: Any person, firm, corporation, municipal department, board, or commission dully authorized to furnish and furnishing under federal, state, or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation, or water.
- 105) Public Water Course: A stream or creek which may or may not be serving as a drain as defined by Act 40 of the Public Acts of 1956, as amended; or any body of water which has definite banks, a bed, and visible evidence of a continued flow or occurrence of water.
- 106) Rehabilitation: The upgrading of an existing building or part thereof, which is in a dilapidated or substandard condition.
- 107) Repair: The reconstruction or renewal of any part of an existing building for the purpose of maintenance.
- 108) Residential Family or Group Child Care Homes and Adult Foster Care Facilities: The bona fide private residence of the operator of the family or group child care home as defined in section 1 of 1973 PA 116, MCL 722.111, and a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.
- 109) Restoration: The reconstruction or reapplication of an existing building's original architectural features.
- 110) Restaurant, Fast food: An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state, for consumption:
  - a) Within the restaurant building; and
  - b) Within a motor vehicle at a drive-through window or parked on the premises; or
  - c) Off the premises as carryout orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.
- 111) Restaurant, Standard: An establishment whose principal business is the sale of food

and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

- a) Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed; and/or
  - b) A cafeteria-type operation where food and beverage are consumed within the restaurant building.
- 112) Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.
- 113) Roadside Stand: A temporary structure, which is used seasonally for display and sale of agricultural produce, baked goods, and refreshments. The operation of a roadside stand shall not constitute a commercial use, if such use is temporary and seasonal, is setback ten (10) feet from the right-of-way line and shall not otherwise constitute a traffic hazard.
- 114) Screen: A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property.
- 115) Setback: The minimum unoccupied distances between the lot line and the principal and accessory buildings, as required herein, (see Figure 2.7)
- a) Setback, Front: Minimum unoccupied distance, extending the full lot width, between the principal building and the front lot line.
  - b) Setback, Rear: The minimum required unoccupied distance, extending the full lot width, between the principal or accessory buildings and the lot line opposite the front lot line.
  - c) Setback, Side: The minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal or accessory buildings and the side lot line.

**Figure 2.7 Setbacks**



- 116) Shed: A storage building that is smaller than 100 square feet.

- 117) Signs: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which are visible from any public way and used as an outdoor display (see also off-site advertising sign).
- 118) Site, Net Area: The total areas within the property lines of a project or development, excluding streets.
- 119) Site Plan: An accurate and readable sketch drawing showing all salient features of a proposed development, so that it may be evaluated to determine whether it meets the provisions of this Ordinance.
- 120) Slaughterhouse: A facility where livestock or poultry are brought to be slaughtered, processed, and packaged.
- 121) Solid Waste: Garbage, rubbish, paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, ashes, incinerator residue, street cleanings, municipal and industrial sludge, and solid "commercials and solid industrial waste, animal waste, but does not include human body waste, liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a re-user of ferrous or nonferrous products, and slag or slag products directed to a slag processor or to a re-user of slag or slag products.
- 122) Special Event Permit: A permit granted by the Village Council of the Village of Baldwin to allow the operation of portable signs, and parking of vehicles not accessory to the use which provides the parking area, as noted herein, may be waived by a special event permit if permission of affected property owners is obtained.
- 123) Stop Work Order: An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.
- 124) Storage Building: An accessory building used solely for storage.
- 125) Story: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling above it. A story thus defined, shall not be counted as a story when more than fifty (50) percent by cubic content is below the height level of the adjoining ground.
- 126) Story, Half: That part of building between a pitched roof and the uppermost full story, said part having a finished floor area which does not exceed one-half (1/2) of the floor area of a full story.
- 127) Story, Height of: The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joists.
- 128) Street: A dedicated public thoroughfare which affords the principal means of access to abutting property and meets construction standards promulgated by the Village of



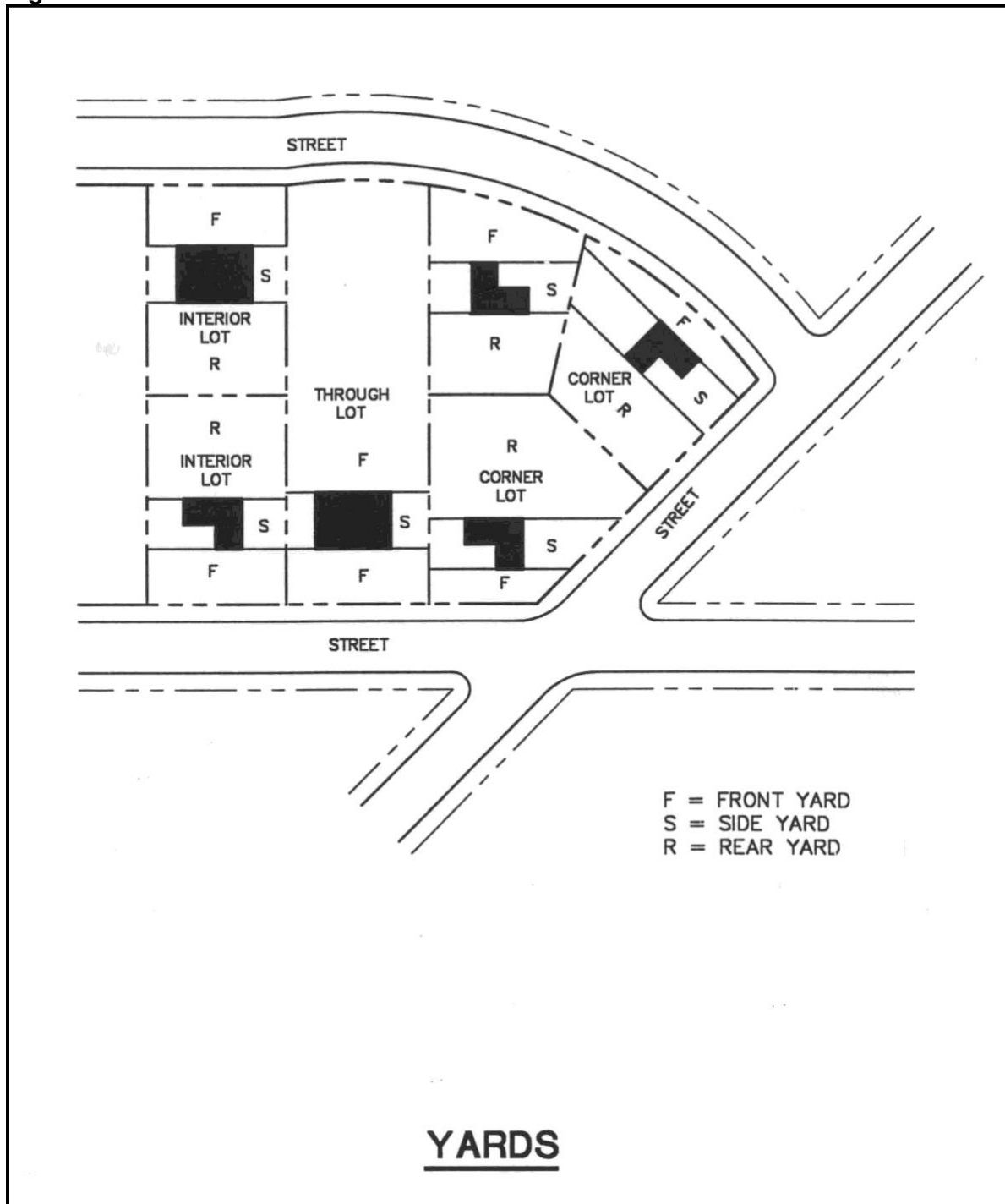
Baldwin.

- 129) Street Line: The legal line of demarcation between a street right-of-way and abutting land.
- 130) Structural Alterations: Any change in the supporting members of a building such as the bearing walls, beams, or girders, or any change in the dimensions or configuration of the roof or exterior walls.
- 131) Structure: Anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings and free-standing signs, but not including sidewalks, drives, patios, and utility poles.
- 132) Subdivision: A subdivision shall be considered the division or portioning of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose, whether immediate or future, of transfer of ownership, whether immediate or future, of transfer of ownership, building development, or lease when the act of division results in:
- a) Five (5) or more parcels of land each of which is ten (10) acres or less in area,
  - or
  - b) Five (5) or more parcels of land each of which is ten (10) acres or less in area by successive divisions in a period of ten (10) years.
- 133) Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the improvement or repair is started, or if the structure has been damaged and is being restored, the cost of which equals or exceeds sixty (60) percent of the market value of the structure before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State or Local Inventory of Historic Places.
- 134) Swimming Pool: Any structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered as an accessory building for the purposes of determining required yard spaces and maximum lot coverage.
- 135) Travel Trailer: A recreational vehicle designed to be used for temporary residence purposes and commonly known as a travel trailer or recreational vehicle.
- 136) Travel Trailer Park: There are two basic types of travel trailer parks: Overnight and Destination.
- a) Overnight Park: Has elaborate facilities and is usually located along or near a main

highway where trailers stay overnight on the way to some other destination.

- b) Destination Park: Is located at or near a scenic or historic area or near fishing, hunting, boating, skiing, or other recreational facilities and has sufficient washroom and restroom facilities to meet the demands, plus providing recreational facilities, such as swings, or slides.
- 137) Use: The purpose for which land or a building is arranged, designed, or intended, or the purpose for which land or a building may be occupied.
- 138) Variance: A variance is a modification of the literal provisions of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship.
- 139) Village Council: Elected members of the governing council of the Village of Baldwin.
- 140) Waterfront Lot: A waterfront lot is any lot or parcel of land on an inland lake or stream. An inland lake or stream is a natural or artificial lake, pond, impoundment, river, stream, creek, or any other water body having definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water and has a surface area of 5 acres or more.
- 141) Wood-Fired Boiler Outdoors: The term “wood-fired boiler outdoors” shall mean a boiler, furnace or stove that is fueled by the burning of natural wood and is not located within a building or structure intended for habitation by humans or domestic animals, but that provides heat or hot water for such a building or structure.
- 142) Yards: (See Figure 2.8).
- a) Yard, Front: An open space extending the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.
  - b) Yard, Rear: An open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
  - c) Yard, Side: An open space between the sideline of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.
- 143) Zoning Administrator: The person charged with the responsibility of administering this Ordinance.

Figure 2.8 Yards



## **ARTICLE 3**

### **GENERAL PROVISIONS**

#### **3.01 INTENT**

The following general provisions establish miscellaneous regulations, which have not been specifically provided for in other portions of this Ordinance yet are applicable to all zoning districts unless otherwise indicated. The jurisdiction of the Ordinance shall include all land and water areas within the incorporated area of the Village of Baldwin, Michigan.

#### **3.02 COMPLIANCE**

Except as hereinafter provided:

- 1) No building shall be erected, altered, or moved, nor shall any building or premises be used for any purpose other than is permitted in the Zoning District in which said building or premises is located.
- 2) No building shall be erected or altered:
  - a) To exceed the maximum allowed height
  - b) To occupy a greater percentage of lot area
  - c) To intrude upon the required front, rear, or side yards
  - d) To accommodate or house a greater number of families
  - e) To provide less living space per dwelling unit area
- 3) No lot area shall be so reduced or diminished that yards and other open spaces shall be smaller than specified, nor shall the density of population be increased in any manner except in conformity with the area regulations, nor shall the area of any lot be reduced below the minimum requirements herein established for the Zoning District in which such lot is located.
- 4) No building shall be erected or altered other than is specified for the Zoning District in which such building is located.

#### **3.03 ACCESS TO A STREET**

All lots must abut on a street or road for an uninterrupted distance equal to the minimum lot width as required in this Ordinance. For a lot abutting the end turnaround area of a cul-de-sac, the minimum road frontage will be fifty (50) feet, provided the lot width meets the minimum lot width requirements at the front setback of the zoning district in which it is located. Lot width should be measured at the access to the street and required access must conform to the requirements of the zoning district in which it is located. All rights-of-way shall be established as public streets.

### **3.04 ACCESSORY STRUCTURES AND USES**

Except as otherwise provided in this Ordinance, the following requirements shall be met:

- 1) Principal Structures must be present on the parcel before accessory structures and uses.
- 2) Accessory structures and uses shall not be erected in any front yard in accordance with the definition of “yard” in this Ordinance. An accessory building may be allowed in a front yard if said building is 300 feet or more from the road right-of-way.
- 3) Accessory structures and uses must be at least ten (10) feet from any lot line.
- 4) No accessory structure shall be used for dwelling purposes.
- 5) On a waterfront lot, an accessory structure shall not be erected or maintained within 75 feet of the ordinary high-water mark (except a boathouse, not greater than ten (10) feet in height above the mean water level).
- 6) An accessory building shall not be closer than ten (10) feet to any other structure on the lot.
- 7) An accessory building shall not occupy more than twenty-five (25) percent of the area of any rear yard.
- 8) Accessory buildings of less than one-hundred 100 square feet are exempt from these provisions.

### **3.05 ADULT ENTERTAINMENT ACTIVITY**

The need for special regulation of certain business uses that, by their very nature, are deemed to have unique characteristics and effects on surrounding properties, is recognized as a legitimate objective. However, special regulation is needed to ensure these uses are not concentrated in one (1) area, thus preventing adverse effects on the surrounding neighborhood, such as blight and urban deterioration, negative effects on economic development potential, social disorder and crime, negative effects on community standards for aesthetics, the reduction of property values and the subsequent negative impact on the community tax base. The primary objective is to prevent a concentration of these uses by establishing spacing standards and, thus, ensuring disbursement of these uses throughout the community.

Therefore, Adult Entertainment Activities are allowed according to the following standards:

- 1) Adult Entertainment Activity shall only be located within Commercial zoning districts.
- 2) An application to establish an adult entertainment activity shall not be approved if there is already in existence one (1) or more Adult Entertainment Activity within 500 feet of the boundaries of the site of the proposed activities, excepting as otherwise provided for within this section.
- 3) An application to establish an adult entertainment activity shall not be approved if the proposed location is within 1,500 feet of any licensed day care facilities, adult foster care home, senior citizens' center, park, or church, and shall not be approved if the proposed location is within 1,500 feet from any K-12 or alternative educational or charter school, except as otherwise provided for within this Ordinance.

### **3.06 ANIMALS**

No animal, fowl, exotic animal, or farm animal, other than household pets, may be kept in any zoning district, except as provided by another Village Ordinance.

### **3.07 BASEMENT DWELLINGS, EARTH-SHELTERED HOMES, AND GARAGES AS DWELLINGS**

Except for earth-sheltered homes, any subgrade dwelling without a full floor above any part of the building grade shall be considered a basement dwelling, which is prohibited. The use of garages and accessory buildings for dwelling purposes is prohibited.

### **3.08 BUILDING GRADES**

Any building shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit runoff of surface water to flow onto the adjacent properties.

### **3.09 CLEAR VISION CORNERS AND CURVES**

No wall, sign, fence, structure, or planting over thirty (30) inches in height shall be planted, erected, or maintained on any lot on the street side of a line drawn between two (2) points each being thirty (30) feet from the intersection of the rights-of-way of two (2) intersecting streets, or which obstructs or interferes with traffic visibility on a curve.

### **3.10 CONVERSION OF DWELLINGS**

The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a Zoning District in which a new building for similar occupancy would be permitted under this Ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such Zoning District with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces and off-street parking.

- 1) Converted single-family dwellings are permitted by right in the R-1 and R-2 Zoning Districts and shall have a minimum of seven hundred fifty (750) square feet of floor area per dwelling unit. Each unit shall be provided with at least one (2) off-street parking space.
- 2) Site development standards:
  - a) Minimum lot size: five thousand (5,000) square feet per dwelling unit.
  - b) Minimum floor area: seven hundred fifty (750) square feet per dwelling unit.
- 3) All signs and off-street parking shall comply with this Ordinance.

### **3.11 CORNER AND THROUGH LOTS**

Any yard that abuts a street right-of-way shall meet the front yard requirements of the zoning district in which it is located.

### **3.12 DEMOLITION OF BUILDINGS**

No building or structure of more than two hundred (200) square feet shall be demolished unless a zoning permit and building permit have first been obtained. Such demolition shall be subject to all the following requirements:

- 1) All utilities shall be disconnected (including but not limited to gas and electric services, sanitary sewer system connections and removal of any septic tank) and water supply. Wells shall be properly capped to prevent groundwater contamination. Written confirmation of all relevant disconnections shall be submitted to the Village prior to the issuance of any permits for demolition.
- 2) The demolition shall not be obnoxious to occupants of surrounding properties due to dust, noise, vibration, traffic, and the like.
- 3) Adequate provision shall be made for the safety of person and property.
- 4) All waste materials shall be removed from the demolition site.
- 5) All debris and rubble (including concrete and brick) shall be removed from the demolition site.
- 6) The demolition site shall be restored to a level grade using clean fill. Clean fill shall consist of natural soil having no detectable contaminants, and may contain some rock, clean brick, ceramics reused in construction, concrete, asphalt paving fragments being "virtually inert", sediments, stone from quarries, borrow pits, etc., or reclaimed asphalt directly reused in construction of roads, bridges, incidental construction, parking areas, etc.

In accordance with State law, a demolition permit is required from the Building Official before any demolition work may commence. A surety in the form of cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village shall be deposited with the Village Clerk to guarantee compliance with all the requirements of this section and completion of the demolition and all required cleanup and removal within the time specified in the permit. The surety shall be refunded in full upon determination that the above requirements have been satisfied. The amount of such financial guarantee shall be determined by the Village Council.

### **3.13 DESTROYED OR DAMAGED BUILDINGS**

The owner of any building or structure, which has been damaged or destroyed by fire, windstorm, or other casualty, shall repair such damage within one year after its occurrence. In the event the building or structure is damaged beyond repair, any part left standing after such damage or destruction to the building or structure shall be demolished pursuant to a permit. However, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure that is unsafe.

### **3.14 DRIVEWAYS**

An approved driveway permit must be obtained from the street administrator and submitted to the Zoning Administrator prior to the issuance of a Zoning Permit. All driveways must maintain a cleared driving area their entire length to a width of twelve (12) feet and a cleared height of twelve (12) feet. No driveway may have a slope greater than fifteen percent (15%).

### **3.15 DWELLING REQUIREMENTS**

Every single-family dwelling shall:

- 1) Comply with the minimum requirements of this Ordinance for the Zoning District in which it is located, including living area requirements, area, height, width, and dimension regulations.
- 2) Have a minimum actual width across any front, side, or rear elevation of twenty-four (24) continuous feet of exterior wall. This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least twenty-four (24) feet.
- 3) Comply in all respects with the current State of Michigan Building Code standards, including minimum heights for habitable rooms and comply with all pertinent fire codes. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction that are different from those imposed by the current State of Michigan Building Code standards, then such federal or state standard or regulation shall apply.
- 4) Be firmly attached to a permanent foundation or footings following the current State of Michigan Building Code standards and shall have a wall of the same perimeter dimension of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.
- 5) Be connected to a public sewer and water supply or to private facilities approved by the Lake County Health Department.
- 6) Contain a storage area in a basement, located under the dwelling, in an attic area, in closed areas, or in a separate structure of standard construction like or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- 7) Be aesthetically compatible in design and appearance with other residences in the vicinity,
- 8) Have a pitched roof; a roof overhang of not less than twelve (12) inches on all sides.
- 9) Have not less than two exterior doors with the second one being in either the rear or side of the dwelling; and, permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
- 10) Not contain additions or rooms or other areas, which are not, constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- 11) The compatibility of design and appearance shall be determined in the first instance by the



Zoning Administrator upon review of the plans submitted for a particular dwelling, subject to appeal to the Zoning Board of Appeals within a period of fifteen (15) days. Any determination of compatibility shall be based upon the standards set forth in this section, as well as character, design, and appearance of one (1) or more residential dwellings. This shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from common or standard designed dwellings, such as underground dwellings.

- 12) Contain no additions or rooms or other areas that are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- 13) Meet the minimum square footage requirements for the district in which it is located.
- 14) In the event that the dwelling is a manufactured home, such dwelling shall be installed pursuant to the manufacturers setup instructions and the rules and regulations of the Michigan Manufactured Housing Commission and shall be secured to the premises by an anchoring system or device also complying with the rules and regulations of the Michigan Manufactured Housing Commission. In addition, the area between the grade elevation of the lot and the mobile home shall either have a wall of the same perimeter dimensions of the mobile home and constructed of such materials and type as required in the State of Michigan Building Code for single-family dwellings or instead have skirting of the same perimeter dimensions of the mobile home, which skirting shall be in compliance with the standards set forth in the Michigan Manufactured Housing Code promulgated by the Michigan Manufactured Housing Commission. All construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the Manufactured Housing Construction and Safety Standards as promulgated by the United States (U.S.) Department of Housing and Urban Development (HUD), being 24 CFR 3280, and as from time to time such standards may be amended. In addition, the manufactured home shall:
  - a) Be installed with the wheels removed, and have no exposed towing mechanism, undercarriage, or chassis.
  - b) Be aesthetically compatible in design and appearance with other dwellings in the vicinity, with either a roof overhang of no less than twelve (12) inches on all sides, a minimum 4/12 roof pitch, not less than two (2) exterior doors with the second door being in either the rear or side of the dwelling, and contain permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
  - c) A manufactured home shall meet or exceed all applicable roof snow load and strength requirements.
  - d) The foregoing standards shall not apply to a mobile home in a licensed manufactured housing park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Village concerning such parks.

### **3.16 EARTHMOVING**

Earthmoving affecting areas greater than two (2) acres shall require review and approval of a site

plan by the Planning Commission in accordance with this Ordinance. Once the Planning Commission has approved a site plan, the Zoning Administrator shall issue an earthmoving permit that shall be valid for six (6) months. The Zoning Administrator may renew such permit for one (1) additional six-month period if all the conditions of the approved Site Plan are met.

### **3.17 ESCROW FEES**

Escrow fees are fees for certain developments, zoning applications, and projects which require additional and at times extraordinary out-of-pocket costs and expenses above and beyond what is associated with typical or average reviews for minor projects, and it is reasonable and appropriate to place the cost of processing zoning and land development applications and decisions on the applicants involved rather than on the taxpayers at large. Such fees shall be used to defray the costs of administering and enforcing the Zoning Ordinance, and the remaining balance of which shall be returned to the applicant.

### **3.18 ESSENTIAL SERVICES**

Essential services shall be permitted, as authorized under any franchise, required by any law of the State of Michigan, or any Ordinance of the Village of Baldwin.

- 1) It shall be lawful for public utilities, municipal departments, or commissions to erect, construct, alter, or maintain underground gas, telephone cable, electrical, steam, or water distribution or transmission systems, collection, communication supply or disposal system, including poles and towers, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police equipment, and accessories in connection therewith, providing such services are below ground or located within a public right-of-way.
- 2) Essential services located above ground and outside of public rights-of-way will be subject to the Special Land Use Requirements of this Ordinance.

### **3.19 EXTRACTION AND REMOVAL**

Except in conjunction with normal construction activities, the use of land for the extraction and removal off site of topsoil, sand, gravel, stone, or other similar material shall be prohibited within the Village.

### **3.20 GRADING AND FILLING**

To protect adjacent properties, public roads, public watercourses, and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities.

- 1) The final grade surrounding a building or structure shall be designed and landscaped such that surface water flows away from the building or structure and is managed in a manner which avoids increased flow onto adjacent properties or public roads, the erosion or filling of a roadside ditch, the blockage of a public watercourse or the creation of standing water over a private sewage disposal drainage field.
- 2) Filling with earth or other materials on any parcel of land to an elevation above the established grade of adjacent land is prohibited. Site Plan Review is required whenever there is more than 20 cubic yards of fill used on any parcel.

### **3.21 GROUP CHILDCARE HOME (7 TO 12 CHILDREN)**

A Group Childcare Home licensed or registered under Act No. 116 of the Public Acts of 1973 shall be allowed in all residential zoning districts if the Group Childcare Home meets the following standards:

- 1) Is located more than 1,000 feet from any of the following, measured along a public road, street, or place (and open to the public as a matter of right for the purpose of vehicular traffic), not including an alley:
  - a) Another licensed Group Childcare Home.
  - b) An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.
  - c) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article 6 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.6101 to 333.6523 of the Michigan Compiled Laws.
  - d) A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the department of corrections.
- 2) Has outdoor play or exercise areas enclosed by a minimum four (4)-foot fence or wall.
- 3) Maintains the property consistent with the visible characteristics of the neighborhood.
- 4) Does not exceed 16 hours of operation during a 24-hour period and may not allow outdoor activities between the hours of 10 PM and 6 AM.
- 5) Is allowed one sign not to exceed six (6) square feet and otherwise meets the applicable sign regulations in this ordinance.
- 6) Contains parking areas consistent with the Parking and Loading requirements of this ordinance. If the Group Childcare Home has employees, there must be provision for off-street parking accommodations. A Group Childcare Home must provide off-street parking accommodations as follows:
  - a) One (1) space per two (2) caregivers whether full-time or part-time.
  - b) One (1) space per every three (3) children.
  - c) One (1) space per each adult residing at the premises.
- 7) The requirements of this section shall not prevent the Village from inspecting and enforcing a Group Childcare Home for the home's compliance with this Ordinance.
- 8) A permit will not be issued by the Zoning Administrator unless all the above requirements are completed or upon receipt of a performance surety sufficient to cover any incomplete items.

### **3.22 HAZARDOUS MATERIALS**

Any hazardous materials stored or used anywhere in the Village must be reported to the Fire Chief and stored only in limited quantities as directed by the Fire Chief.

### **3.23 HEIGHT RESTRICTION EXCEPTIONS**

The following are exempted from height limit restrictions, provided no portion of the excepted structure is used for human occupancy:

- 1) In all zoning districts, the height requirements may be exceeded for those structures primarily ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles, monuments, chimneys, storage buildings, roof-mounted television and radio antennae, and ornamental projections, provided they do not exceed seventy-five (75) feet in height. However, Amateur Radio Operators and other not-for-profit FCC licensed radio activities are regulated in accordance with the Code of Federal Regulations, PRB-1, and are assured the height they need to conduct the type of operations they are engaged in. Depending on the type of operation and terrain, etc., that height may exceed 75'. Depending on location, FAA regulations may also apply.
- 2) In Commercial and Industrial Zoning Districts, necessary appurtenances to mechanical or structural functions, such as heating and cooling units, fire towers, elevator and stairwell buildings, bulkheads, roof storage tanks, aerials and antennas, electronic devices, chimneys, smokestacks, ventilators, bulkheads, and other necessary accessory structures where the function of the building requires a greater height, may exceed the height restrictions provided they are located not less than the same distance as their height from any adjoining property. However, for FCC licensed operations, these height limitations may be exceeded providing accepted engineering standards that would reasonably preclude the tower from falling, etc. Commercial tower manufactures build to varying standards based on "wind zones" typically encountered in the local area, etc. (e.g., Zone A, B or C).
- 3) Community service installations, including water towers and telecommunications towers, may exceed the height restrictions provided they do not exceed one hundred (100) feet in height. However, for FCC licensed operations, these height limitations may be exceeded providing accepted engineering standards that would reasonably preclude the tower from falling, etc. Commercial tower manufactures build to varying standards based on "wind zones" typically encountered in the local area, etc. (e.g., Zone A, B or C).

### **3.24 HOME OCCUPATIONS**

The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance, but such permission is not intended to allow the essential use and appearance residential character of residential districts to be changed by the occurrence of non-residential activities. An occupation may be conducted in a dwelling, provided:

- 1) No more than one (1) person other than immediate members of the family residing on the premises shall be engaged in such occupation.
- 2) Such use shall be contained entirely within the dwelling and shall not alter the residential character or appearance of the property.

- 3) The use of the dwelling for the 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 of the dwelling, shall be used in the conduct of home occupations.
- 4) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupations other than one (1) non-illuminated sign, not exceeding nine (9) square feet in area.
- 5) No traffic shall be generated by such home occupations in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupations shall be provided off the street.
- 6) No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, smoke, effluents, odors, or electrical interference detectable off the premises to the normal senses or causes fluctuation in line voltage off the premises.
- 7) Outdoor storage of equipment, trucks, machines, or supplies is prohibited.
- 8) Retail sales and machine manufacture of goods from raw materials are not allowed.
- 9) Bed and breakfast establishments may be located only in single-family dwellings operated by the property owner. There must be one (1) parking space for each guest room. The number of guestrooms shall be limited to one (1) for each 1,000 square feet of GFA. Meals may be served in a separate room designed for serving meals and only to overnight guests, not the public.

### **3.25 HOUSEHOLD PETS**

Not more than four (4) household pets of any species may be kept on any parcel. Household pets not kept indoors, must be within cages or on other types of restraints.

### **3.26 INSTITUTIONAL STRUCTURES AND USES**

- 1) Authorization: In recognition of the many types of institutional, non-residential functions that have been found compatible and harmonious with residential and commercial uses, certain institutional uses specified in this Section are permitted by right in the R-1, R-2, C-1, and C-2 districts.
- 2) Permitted Institutional Uses include but are not limited to institutions such as libraries, museums, parks, playgrounds, churches, cemeteries, schools, and community centers.
- 3) Site Development Standards:
  - a) The proposed site shall be at least one acre (43,560 square feet) in size.
  - b) The proposed site shall be so located as to have at least one property line on a public street. All ingress and egress to the site shall be directly onto said Public Street.
  - c) No building shall be closer than fifty (50) feet to any street right-of-way or property line.
  - d) No more than fifty (50) percent of the gross site area shall be covered by buildings.

- 4) All signs and off-street parking shall comply with this Ordinance.

### **3.27 LOT FRONTAGE, AREA AND WIDTH REQUIRED**

The following standards shall apply to all lots:

- 1) All lots shall have frontage on a public street and shall have the minimum lot width at such frontage of not less than that required in the zoning district in which it is located. No portion of any parcel may have a width less than the required minimum.
- 2) Lot width will be measured at the building setback line.
- 3) No lot or lots in single ownership, and no required setback, parking facilities, or other space shall be reduced to less than the minimum area or space required under this Ordinance.
- 4) No lot or lots in the same or similar ownership shall be further reduced if already less than the minimum.
- 5) 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.
- 6) Permitted uses shall be allowed only on separate and discrete parcels. Parcels may contain more than one lot but must be one tax parcel.
- 7) Except for combining lots, no portion of an existing lot of record shall be sold if the new lot that is created does not meet the area and dimension requirements of the zoning district in which it is located.

### **3.28 MANUFACTURED HOUSING COMMUNITIES**

Only the following land and/or building uses may be permitted:

- 1) Manufactured Housing as defined in this Ordinance.
- 2) Office space for conducting the businesses of the Manufactured Housing Community.
- 3) Utility buildings for laundry facilities and auxiliary storage space for Manufactured Housing Community tenants.
- 4) Recreation area such as community buildings, playgrounds, and open space for use by Manufactured Housing Community tenants.
- 5) General Development Standards:
  - a) The design, development, operation, and business practices of Manufactured Housing Communities shall be subject to all current provisions of the Manufactured Housing Commission General Rules as adopted by the Michigan Manufactured Housing Commission.
  - b) Connections to publicly owned sanitary sewer facilities are required.

- c) The minimum gross site area shall be a minimum of five (5) acres.
- d) The site shall be adjacent to and serviced by a public street.
- e) No part of any Manufactured Housing Community shall be used for non-residential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of Manufactured Housing Communities.
- f) All signs and off-street parking shall comply with the standards and requirements of this Ordinance.
- g) Manufactured Housing Communities are permitted in the R-4 Zoning District.

### **3.29 MOVING OF STRUCTURES AND BUILDINGS**

The moving of a structure or building shall be considered the erection of a new building or structure and shall fully conform to all the provisions of this Ordinance in the same manner as a new building or structure.

- 1) No building or structure shall be moved until a permit for such shall have been secured. All provisions relative to the erection of new structures shall be met, including a Building Permit.
- 2) Before a Zoning Permit may be issued for moving a building or structure, the Building Inspector shall inspect it and shall determine if it is in a safe condition to be moved, and whether it complies with the building code and use requirements of the zoning district to which it is to be moved. Providing these conditions can be complied with, a Zoning Permit shall be issued for the moving of said building or structure. A performance bond may be required prior to such moving in the amount of ten percent (10%) of the assessed valuation of the structure.
- 3) No existing building or other structure within or outside of the Village of Baldwin shall be relocated upon any parcel or lot within the Village unless:
  - a) All provisions of this Ordinance are met, and a Zoning Permit has been granted.
  - b) The building and all materials therein are in conformity with the State of Michigan Construction Codes(s) enforced in the Village of Baldwin
  - c) The building or structure can be located upon the parcel and still conform to other requirements of the respective zoning district.

### **3.30 MULTIPLE USES OF BUILDINGS**

Multiple uses of a single building in commercial and industrial zoning districts may be allowed by Special Land Use permit. However, all the proposed uses must be allowed in the zoning district in which the multiple uses are to be located.

### **3.31 ON-SITE SEWAGE TREATMENT AND WATER WELL FACILITIES**

All facilities not served by a public sewer must obtain an approved permit for the necessary onsite sewer and water facilities from the County Health Department. The permit must be submitted to the Zoning Administrator, together with a diagram with dimensions showing the location and size of the facilities, prior to the issuance of a Zoning Permit and Building Permit.

### **3.32 PRINCIPAL USE**

No more than one principal building or use may be permitted on a lot or parcel, unless specifically provided for elsewhere in this Ordinance. A single-family dwelling, other than a farm dwelling, shall constitute a principal use, and only one (1) single-family dwelling shall be allowed on a lot.

### **3.33 PUBLIC FACILITIES AND COMMUNITY SERVICE INSTALLATIONS**

Public Facilities and Community Service Installations may be in any zoning district upon approval by the Planning Commission as a Special Land Use.

### **3.34 SCREENING REQUIRED**

All uses and activities requiring screening must be submitted to the Planning Commission according to the Site Plan Review requirements of this Ordinance.

#### **1) General Requirements:**

- a) All uses listed below shall be screened from adjacent residential zoning districts as required in this section. Screening may consist of walls, fences, vegetation, and berming, or a combination of any of these as allowed by the Planning Commission. In addition, the Planning Commission in its discretion may waive or alter the screening requirement.
  - 1. Buildings in commercial districts.
  - 2. Buildings in industrial districts.
  - 3. Communication towers.
  - 4. Multifamily dwellings.
  - 5. Outdoor storage areas.
  - 6. Off-street parking facilities.
  - 7. Loading and unloading areas.
  - 8. Compost facilities.
  - 9. All other uses specifically identified as having to meet the requirements of this section.

#### **2) Walls and Fences (the following standards shall apply):**



- a) Walls and fences shall have no openings for vehicular traffic or other purposes except as otherwise provided in this Ordinance and except such openings as may be approved by the Planning Commission.
- b) Walls and fences shall be constructed of durable, weather resistant, rustproof, and easily maintained materials.
- c) The height of the required screening fence or wall shall be as follows:

<b>TABLE 1 Screening Wall and Fence Height Requirements</b>		
<b>WALL &amp; FENCE HEIGHTS</b>	<b>REQUIRED HEIGHT</b>	
<b>2</b>	<b>Minimum</b>	<b>Maximum</b>
Buildings in Commercial Districts	4 feet 6 inches	6 feet
Buildings in Industrial Districts	6 feet	8 feet
Multifamily Dwellings	6 feet	6 feet
Outdoor Storage Areas *	6 feet to 8 feet	8 feet
Off-street Parking facilities	4 feet	6 feet
Loading and Unloading Areas	6 feet	8 feet
*Wall height shall be a minimum of the required height unless a higher wall is required to adequately screen the area, with a maximum wall height being 8'.		

3) Vegetation (At the discretion of the Planning Commission, landscaping may be substituted in lieu of walls and fences whereby the following standards shall apply):

- a) Vegetation shall consist of upright conifers such as, but not limited to Blue, Green, White, or Serbian Spruce; Douglas fir; Austrian Pine; Juniper; or Hemlock.
- b) There shall be a greenbelt-planting strip with a width of not less than twenty (20) feet along the property lines and may be within the required setback. Such greenbelt shall contain at least one (1) straight or double staggered row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart, and at least three (3) rows of deciduous and/or evergreen shrubs spaced not more than eight (8) feet apart and which grow to an ultimate height of no less than twelve (12) feet.
- c) For staggered, double-row plantings, trees shall be planted not more than fifteen (15) feet on center. For single row spacing, trees shall be planted not more than ten (10) feet on center.
- d) Trees shall not be less than five (5) feet in height at the time of planting.

- e) Existing trees that comply with the standards of this section, as determined by the Planning Commission, shall be credited toward meeting the screening requirements.
- f) All required plant units should be maintained in a healthy, growing condition. Any required plant units that are destroyed, removed, diseased, or die, shall be replaced within six (6) months with plant units that meet the requirements of this section. Failure to maintain required plant units in such a manner, including the removal and replacement of dead or diseased plant materials, shall constitute a violation of this Ordinance.
- g) The plantings shall be maintained in a neat and attractive manner commensurate with the adjoining areas and shall maintain their density and screening effect throughout the calendar year.

4) **Berming (the following standards shall apply:**

- a) Berms shall be constructed with one (1) foot of rise for each three (3) feet of horizontal distance.
- b) Berms shall be constructed of clean fill and topsoil, seeded with perennial rye and an appropriate grass seed, and shall be covered with organic mulch.
- c) Berms shall be landscaped with shrubbery and trees to enhance the screening effect and aesthetic appearance of the berm and shall be maintained in a neat and attractive manner.

5) **Landscaping:**

- a) Landscaping shall mean, at a minimum, an area constructed of clean fill and topsoil and seeded with perennial rye and an appropriate grass seed with a minimum thirty percent (30%) cover of plant materials and mulch.
- b) Landscaping may include berms. Berms may include shrubbery and trees to enhance the landscaping effect and aesthetic appearance.
- c) Screening of refuse storage areas:
- d) Trash, garbage, and refuse storage and receiving areas are required to be screened from view. Screening walls or fences for these purposes shall be a minimum of four (4) feet six (6) inches in height and shall be of satisfactory height to completely screen the appropriate areas from view.
- e) Screening walls shall have no openings except for gates or doors intended to access said area.

6) **Surety:** Surety, as required by this Ordinance, sufficient to cover the cost of the required screening, may be required and used if the required improvements are not completed within twelve (12) months from the date of approval.

### **3.35 SETBACK ENCROACHMENTS**

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

- 1) Chimneys, flues, sills, pilasters, cornices, eaves, gutters, and similar features may project into any required yard a maximum of twenty-four (24) inches.
- 2) Terraces, patios, porches, and decks not covered with a roof, or that the deck or paved area is no closer than ten (10) feet from any line or public right-of-way line.
- 3) Unenclosed and unroofed fire escapes, outside stairways and balconies may project into a required yard a maximum of four (4) feet.
- 4) Roofed porches and other enclosed appurtenances shall be considered an integral part of the building to which they are attached and shall be subject to all yard requirements thereof.

### **3.36 SETBACK REDUCTIONS FOR FRONT YARDS**

Any front setback area in any district may be reduced below the minimum requirements, when the average front setback of existing principal buildings within two hundred (200) feet in each direction on the same side of the street of a proposed principal building location, is less than the minimum required, in which case the required minimum front setback shall be based on the established average, except that in no case shall a front yard setback be less than twenty (20) feet.

### **3.37 SETBACK FOR STRUCTURES AND SEPTIC SYSTEMS FROM WATER BODIES**

No private sewage system or any principal structure for human occupancy shall be located less than the distance required by the "District 10 Health Department" from the ordinary high watermark of a surface body of water or the normal ground water table level.

### **3.38 SITE RESTRICTIONS**

No land shall be used, or structure erected whereby reason of flooding, concentrated runoff, inadequate drainage, the land is unsuitable for such use or structure, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, well-being, and general welfare of this community.

### **3.39 STORAGE OF VEHICLES**

- 1) Vehicles without current license and registration shall not be stored outside of an enclosed structure.
- 2) Storage of commercial vehicles, semi-trailers (tractor or trailer), exceeding a rated capacity of two and one-half (2½) tons is prohibited in all residential zoning districts. Temporary off-street parking of such vehicles may be allowed in residential districts by permit issued by the Zoning Administrator. Storage shall be defined as the keeping of more than one (1) such vehicle for a period of thirty (30) days or longer per calendar year.

### **3.40 STRUCTURES ON MORE THAN ONE LOT**

If a structure is to be constructed on the lot line of two (2) or more lots under single ownership, the lots must be combined into a single tax identification number before a Zoning Permit will be issued.

### **3.41 SUBSTANDARD LOTS OF RECORD**

Any lot of record may be utilized for uses permitted under this Ordinance if all other requirements of this Ordinance are met.

### **3.42 SWIMMING POOLS**

Swimming pools may be installed in any zoning district as an accessory use. All pools must meet the following conditions, and the provisions of the Michigan Department of Public Health:

- 1) Pools may be installed in the side or rear yards of a lot in residential and agricultural districts. Motels and hotels may install pools in the front yard. All yard requirements shall be met, except as provided below.
- 2) Fences not less than five (5) feet in height shall be required. The support posts thereof shall be constructed in a permanent manner and in such a way as to last for the duration of such pool. Such posts shall be spaced at intervals of not more than eight (8) feet. The fences shall entirely enclose the pool.
- 3) Every gate or other opening in the fence shall be designed and maintained to prevent entry of persons except as allowed by the property owner, and consistent with the State of Michigan Construction Code.
- 4) No pool or pool enclosure shall be erected closer than five (5) feet from the rear and side property lines of the lot. For corner lots, the pool shall not be located closer than twenty (20) feet from any street right-of-way.
- 5) Pools may not occupy more than forty percent (40%) of the area of the yard. In computing such area, all other accessory structures shall be excluded.
- 6) The inlet of the water supply system shall be above the overflow level of the pool and fitted with an anti-siphon device.
- 7) Such pool shall be chemically treated in a manner sufficient to maintain bacterial standards established by the provisions of the Michigan Department of Health relating to public swimming pools.
- 8) Backwash or drainage of swimming pools shall not be allowed to discharge beyond the property line or directly into any wetland, stream, or body of water.

### **3.43 TEMPORARY BUILDINGS AND STRUCTURES**

Temporary accessory structures may be allowed by permit by the Zoning Administrator for construction activities. The permit shall specify the location of the temporary accessory structure and shall specify the length of time it shall remain in effect. The Zoning Administrator may renew

the permit for additional periods, not to exceed two (2) years, if he finds good cause.

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

- 1) During renovation of a permanent building damaged by fire or act of God. The temporary building or structure must be removed when repair of damage is complete, but in no case shall it be located on the lot or parcel for more than ninety (90) days.
- 2) Temporary buildings and structures incidental to construction work, except single-family dwellings shall be removed within thirty (30) days after issuance of the Certificate of Occupancy, but in no case shall the building or structure be allowed more than twelve (12) months unless expressly authorized after petition to the Zoning Board of Appeals.
- 3) Temporary buildings incidental to a church or school, provided all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by relevant state agencies.
- 4) In any event, the temporary accessory structures and all debris shall be removed within thirty (30) days after issuance of the Certificate of Occupancy.

### **3.44 TEMPORARY HOUSING**

The Zoning Administrator may issue temporary housing permits for structures for dwelling purposes, including Manufactured Housing, subject to the following limitations and procedures:

- 1) No garage, barn, accessory buildings, or detached cellar, whether fixed or portable, shall be used or occupied as a dwelling.
- 2) Travel trailers or motor homes may be occupied for a period not to exceed thirty (30) days. Extensions may be allowed for an additional 30-day period at the discretion of the Planning Commission.
- 3) Emergency Housing: When a dwelling is destroyed by fire, collapse explosion, acts of God, or acts of a public enemy to the extent that it is no longer safe for human occupancy, as determined by the building inspector, a Temporary Housing Permit may be issued upon the request of the owner at the time of destruction. Said permit shall be in effect for no more than six (6) months, any extension must be approved by the Planning Commission who may grant the same for a period of not more than one (1) year.
- 4) Conditions: A Temporary Housing Permit shall not be granted, for any reason, unless the Planning Commission finds evidence that the proposed location of the temporary dwelling will not be detrimental to property in the immediate vicinity within three hundred (300) feet, and that the proposed water supply and sanitary facilities have been approved by the Lake County Health Department. All applicable dimensional requirements within said district shall apply to temporary dwellings.
- 5) Mobile homes and/or recreational vehicles may be allowed as temporary housing, provided they meet the following requirements. The building inspector may issue a permit for temporary housing or use of a mobile home constructed to the Department of Housing and Urban Development (HUD) specifications outside of an approved and licensed manufactured housing

park under the following situations:

- a) For use as a temporary dwelling for the occupants of a dwelling damaged by fire or storm
  - b) For use as a temporary dwelling during the construction of a new permanent dwelling on the same parcel, provided that a Zoning Permit has been issued for the permanent dwelling prior to the issuance of the temporary housing permit for the mobile home
  - c) The temporary housing permit shall not be issued unless the following requirements are met:
    1. The mobile home and/or recreational vehicle must be located within 100 feet of the principal residential dwelling.
    2. The mobile home and/or recreational vehicle have a water system and septic tank system that meets the requirements of the County Health Department. A certificate from said department showing such compliance shall be filed with the building inspector before any use or occupancy is made of said mobile home.
    3. One-half (1/2) of the normal setback requirements for a single-family dwelling shall be met.
- 6) The time allowed by the temporary housing permit shall not exceed one (1) year. A temporary housing permit issued under this section shall not be renewed for the same unit or location without the approval of the Board of Appeals.
- 7) The fee to be paid for the issuance of a temporary housing permit for a mobile home and/or RV may be established by the Village Council. If a permit is allowed to be renewed, an additional fee will be collected.
- 8) The building inspector shall revoke the temporary housing permit at any time if the usage violates any of the requirements outlined in this section. If a permit is revoked, the unit must be vacated and removed from the property within thirty (30) days, or it constitutes a violation of the Ordinance and is subject to the penalties outlined in this Ordinance.

### **3.45 TRAVEL TRAILERS AND MOTOR HOMES**

No motor home or travel trailer shall be used or located within the Village except in accordance with the following regulations:

- 1) No person shall park overnight or permit the parking overnight of any motor home or travel trailer upon any public highway, street, alley, or park within the Village.
- 2) No person shall park or permit the parking of any unoccupied motor home or travel trailers outside a duly licensed recreational vehicle park, except, in an accessory building, or rear yard, provided no living quarters shall be maintained or any business practiced in said vehicle.
- 3) No motor home or travel trailer shall be stored on any parcel where there is no principal building.
- 4) Except as may be allowed by other village ordinances, the use of travel trailer for dwelling

purposes is prohibited.

### **3.46 WALLS AND FENCES**

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

- 1) Under no circumstances shall a fence be constructed of unconventional fencing materials including, but not limited to, pallets, tree trunks, doors, trash, tires, junk, or other similar items.
- 2) Fences may be located on the property line but may not extend into any right-of-way or onto adjacent property.
- 3) Fence heights shall be measured from the surface of the ground immediately below the fence.
- 4) Fences for swimming pools shall be allowed as required in this Ordinance.
- 5) Fences shall not be located within thirty (30) feet of the ordinary high-water mark of a lake or stream.
- 6) All fences shall be of such design and location that they do not obstruct the vision of motorists on adjacent roads or the vision of pedestrians or motorists leaving the premises.
- 7) Retaining walls are exempt from these fence provisions.
- 8) Residential Districts:
  - a) Fences not greater than six (6) feet in height are allowed in the side or rear yards
  - b) Fences not more than four (4) feet in height are allowed in the front yard if they are not more than twenty-five (25%) solid
  - c) Fences not more than three (3) feet in height are allowed in the front yard if they are more than fifty percent (50%) solid
  - d) Fences shall not contain barbed wire, razor wire, spikes, or electric current
- 9) Commercial and Industrial Districts:
  - a) A chain-link, protective fence not more than six (6) feet in height is allowed in all yards.
  - b) Privacy fences may be allowed in the following circumstances:
    1. The fence is along a property line adjacent to a public facility or right-of-way.
    2. The parcel on which the fence is to be located is a minimum of 0.5 acres in size.
    3. The fence is not in the front yard.
    4. The fence is not connected to two buildings.

- c) Fences in Commercial Zoning Districts shall not contain barbed wire, razor wire, or electric current.

### **3.47 WIND TURBINES FOR PERSONAL USE**

Individual wind turbines for personal use and related improvements may be allowed under the following conditions:

- 1) Micro Wind Turbines having a rotor diameter of less than 48" are allowed in all zoning districts.
- 2) Wind Turbines having a rotor diameter of greater than 48" must comply with the following standards:
  - a) The lowest point on all rotor blades must be at least thirty (30) feet above ground level
  - b) Wind turbines must be located on parcels of two (2) acres or larger
  - c) No wind turbine height shall exceed one hundred (100) feet in height
  - d) All wind turbine support bases must be installed either:
    - e) On an existing structure or building suitable to support a wind turbine, or on a monopole tower
    - f) If not attached to a building, wind turbine tower bases must be set back from all buildings and structures a minimum of ten (10) feet and at least two hundred (200) feet from all dwellings not located on the same parcel
  - g) All wind turbine support bases must be set back from all property lines and the closest road right-of-way a distance equal to one and one-half (1 ½) the wind turbine height
  - h) Wind turbines shall not be allowed in a front yard
  - i) If the use of any wind turbine is discontinued for a period of one (1) year, the owner shall remove the structure within ninety (90) days

### **3.48 WOOD-FIRED BOILERS OUTDOORS**

An outdoor wood-fired boiler shall not be permitted within the Village unless it complies with the following regulations:

- 1) **Zoning District** - An outdoor wood-fired boiler may be installed and used only on parcels of land which are greater than two acres in area and are in an industrial or residential zoning district.
- 2) **Setback** - The outdoor wood-fired boiler shall be located no less than 150 feet from the nearest building that is not on the same property as the outdoor wood-fired boiler.
- 3) **Chimney Height** - The outdoor wood-fired boiler shall have a chimney that extends at least 15 feet above the ground surface. The Mechanical Inspector may approve a lesser height on a



case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

4) **Fuel** - No fuel other than natural wood without additives, wood pellets without additives, and agricultural seeds in their natural state may be burned. The following materials are specifically prohibited:

- a) Rubbish or garbage, including but not limited to food waste, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes
- b) Waste oil or other oily wastes
- c) Asphalt and products containing asphalt
- d) Treated or painted wood including, but not limited to plywood, preservatives. products or other wood products that are painted, varnished, or treated with preservatives.
- e) Any plastic material including, but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films, and plastic containers
- f) Rubber, including tires and synthetic rubber-like products
- g) Newspapers, corrugated cardboard, container board or office paper
- h) Grass clippings

5) **Permit** - The owner of an outdoor wood-fired boiler shall obtain a permit from the Village. The applicant for a permit shall submit the following information:

- a) Verification that the outdoor wood-fired boiler will comply with the manufacturer's specifications for such outdoor wood-fired boiler
- b) Verification that the outdoor wood-fired boiler will comply with all applicable state and federal statutes

## **ARTICLE 4**

### **SITE PLAN REVIEW**

The following Site Plan review provisions establish specific regulations applicable to all zoning districts:

#### **4.01 Uses Requiring Site Plan Approval**

The following buildings, structures, and uses require site plan approval by the Planning Commission:

- 1) All Special Land Uses
- 2) All commercial or industrial uses
- 3) Manufactured Housing Communities
- 4) Multi-family Residential uses
- 5) Parking facilities containing 10 or more parking spaces
- 6) Parks and recreational areas
- 7) Planned Unit Developments (PUDs)

#### **4.02 SKETCH PLAN REVIEW**

Sketch plan review is voluntary and not mandatory. Preliminary sketches of proposed site and development plans may be submitted for review prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Village to inform the applicant of the acceptability of the proposed plan prior to incurring extensive engineering and other costs that might be necessary for final site plan approval. The applicant shall submit a letter stating the nature of the request accompanied by a sketch of the proposed use or structure. The Village will provide the applicant with the proper documents and instructions for completing a site plan application. Sketch plans shall include the following:

- 1) Legal description of the property.
- 2) Small-scale sketch of properties, streets, and use of land within 300 feet of the property boundary showing:
  - a) Streets
  - b) Lots
  - c) Circulation, access points, driveways, and sidewalks
  - d) Parking and loading arrangement
  - e) Buffer strips and screening

- f) Existing characteristics, including but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills, dune classifications, dune crests, and similar natural assets
  - g) Signs; location and lighting
  - h) Buildings
- 3) A narrative describing:
- a) The overall objectives of the proposed development
  - b) Number of acres allocated to each proposed use and gross area in buildings, structures, parking, public and/or private streets and drives, and open space
  - c) Dwelling densities by type
  - d) Proposed method of providing sewer and water service, as well as other public and private utilities
  - e) Proposed method of providing storm drainage
  - f) Proposed method of re-vegetating open or exposed ground areas, both preexisting and newly created, to a stable condition
  - g) Proposed zoning changes for the property or abutting properties.
- 4) In addition to the above, the applicant shall submit the Site Plan Review fee in accordance with the established fee schedule to cover the normal and specially incurred expenses of the review.

#### **4.03 REVIEW OF SKETCH PLAN**

If the applicant chooses to submit a Sketch Plan, the Planning Commission may request review comments from other Village officials such as the fire chief, attorney, or engineer, and base their recommendations on those review comments, as well as the purposes, objectives, and requirements in this Ordinance, and specifically, the following considerations when applicable:

- 1) Ingress and egress through the property and proposed structures thereon with reference to motor vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fires, catastrophe, or emergency.
- 2) Off-street parking and loading areas where required, with particular attention to noise, glare, and odor effects of each use in the plan on adjoining properties and properties in the proposed development.
- 3) Sewer, water, and storm drainage with reference to locations, availability, and compatibility.
- 4) Screening and buffering with reference to type, dimensions, and character.
- 5) Signs, if any, and their proposed lighting relative to glare, traffic safety, economic effect, and

compatibility and harmony with adjoining properties.

- 6) Required setbacks.
- 7) General compatibility with adjacent properties.
- 8) The general purposes and spirit of this Ordinance and the Village's Master Plan.

#### **4.04 SITE PLAN REVIEW REQUIREMENTS**

Formal Site Plan Review is mandatory. An application for Site Plan Review along with the Site Plan shall be submitted 21 days prior to the next scheduled Planning Commission meeting. The Village Planner or Zoning Administrator will review the application and plans for completeness, and then transmit the application and plans to the Planning Commission. Incomplete applications will not be forwarded for consideration. A Site Plan must be provided on an accurately scaled drawing (such as 1" = 100') sized to appropriately fit on a 24 by 36-inch-sized sheet including the date and north arrow shall be required. The dates of all revisions shall be noted on the plan. Site Plans shall contain all of the following information:

- 1) The name and address of the individual or firm responsible for the preparation of the Site Plan.
- 2) The name and address of the property owner or applicant.
- 3) The relationship of the proposed use to the area within 300 feet of the property boundary.
- 4) The location, shape, area, dimensions, and legal property description of the lot and property lines including required setbacks to be shown and dimensioned.
- 5) The location of all existing and proposed structures on and within 100 feet of the property boundary.
- 6) The location, dimensions, height, shape, and floor-area of the existing and, or proposed structures to be repaired, erected, altered, demolished, or moved on the lot, as well as finished ground and basement grades.
- 7) The intended uses.
- 8) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
- 9) The yard and open space dimensions.
- 10) A vicinity sketch showing the location of the site in relation to the surrounding street system, within five hundred (500) feet in every direction from the property boundary including on the opposite side of any public thoroughfare.
- 11) Natural features such as wood lots, streams, county drains, lakes or ponds, and man-made features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.

- 12) Topography shall be required on all site plans.
- 13) Existing public rights-of-way and private easements of record.
- 14) The location and dimensions of all existing and proposed streets, drives, driveways, sidewalks, curb openings, driveways, parking spaces, sidewalks, with indication of direction of travel, the inside radii of all curves including driveway curb returns, signs, exterior lighting, curbing, recreation areas, common use areas, the width of streets, and areas to be conveyed for public use and purpose.
- 15) Proposed parking facilities, unloading areas, the total number of parking spaces, and dimensions of both handicapped and typical individual parking spaces and associated aisles.
- 16) Proposed location and size of accessory buildings and accessory uses.
- 17) A landscape plan indicating the proposed locations of planting and screening, fencing, and lighting.
- 18) Location of underground storage tanks.
- 19) The location and pavement width and right-of-way width of all abutting roads, streets, alleys, or easements.
- 20) Property lines and respective zoning abutting the subject property.
- 21) The location of all existing landscaping and the location, height, and types of fences and walls.
- 22) Size and location of existing and proposed utilities, including proposed connections to public utilities including gas, electric, sanitary sewer, water, communications, etc.
- 23) The location and size of all existing and proposed surface water drainage facilities.
- 24) Adequate information concerning soils, groundwater, water table, and the impact of the proposed activities on each.
- 25) For multiple-family, Manufactured Housing Community developments, and parking facilities with 10 or more spaces, contour intervals shall be shown (2-foot intervals for average slopes of 10% and under, 5-foot intervals for slopes over 10%). Summary schedules and views should be affixed as applicable in residential developments, which give the following data:
  - a) The number of dwellings proposed (by type) including typical floor plans for each type of dwelling.
  - b) The number and location (by code if necessary) of 1-bedroom units, 2-bedroom units, etc.
  - c) Typical elevation views of the front and side of each type of building
- 26) Such additional information as the Zoning Administrator and Planning Commission may deem necessary in order to determine the impact of the proposed use on the public health, safety,

and the general welfare, and to provide for the enforcement of this Ordinance.

27) All required fees, escrow deposits and performance sureties

28) The applicant shall ensure and be able to demonstrate, to the satisfaction of the Village, that all necessary reviews and approvals of other local, county, state, and federal agencies and associated regulations are satisfactorily met, complied with, and completed.

29) Plans submitted for formal site plan review must be prepared by a registered professional.

#### **4.05 REVIEW PROCEDURE**

The Site Plan shall be submitted in nine (9) copies. Upon approval of a site plan, at least two copies of the Site Plan as finally approved shall be signed and dated by the chairperson of the Planning Commission. One copy of the signed site plan shall be filed in the Village's records and the other returned to the applicant. The Zoning Administrator shall consider an application for a Zoning Permit for approval when said application contains the following information. The procedure for final site plan approval is as follows:

1) A completed Zoning Permit application form.

2) In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, a report from the Lake County Health Department certifying in writing the approval of a private sanitary sewage disposal system.

3) When a municipal, public, or private water supply system is required by law or proposed by the applicant a report from the Lake County Health Department, certifying approval of private water supply systems.

4) The Zoning Administrator shall determine whether the application and Site Plan are complete and contain all required information. Upon certification that the Zoning Permit application is complete, the Zoning Administrator shall make a preliminary determination whether the application and site plan comply with this Ordinance and shall promptly present the Site Plan to the Planning Commission for review.

5) The Zoning Administrator may discuss the Site Plan with agencies considered to be affected by the proposed development, such as:

a) Village of Baldwin Department of Public Works

b) Baldwin Fire Department

c) Lake County Road Commission

d) Lake County Health Department

e) Lake County Drain Commissioner

f) Lake County Sheriff's Department

g) Michigan Department of Natural Resources and Environment

h) Michigan Department of Transportation

6) The Planning Commission encourages preliminary, informal review of proposed Site Plans with the applicant. The preliminary review, however, shall not affect the applicability of the standards and requirements for formal approval of site plans as required by this Article.

7) A copy of the Site Plan shall be provided to the Village in digital format.

#### **4.06 STANDARDS FOR FINAL SITE PLAN APPROVAL**

1) The Planning Commission shall review the Site Plan based on the purposes, objectives, and requirements of this Ordinance and on the standards provided by this Article. As a part of its review, the Planning Commission may distribute copies of the plan to other governmental departments or officials. Their review and comment would be on matters related to the plan that would fall under their jurisdiction or involve the discharge of their duties.

2) In reviewing a site plan, the Planning Commission shall determine whether the applicant has established that the Site Plan is consistent with this Ordinance and in accordance with the adopted Village Master Plan and more specifically, in reviewing the Site Plan, the Planning Commission shall specifically consider the following standards, as applicable:

- a) Vehicular access and parking: The provisions for vehicular loading, unloading, and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways shall be in accordance with this Ordinance and shall not create hazards to safety nor place demands on public services or facilities greater than capacity. All buildings and structures shall be accessible by emergency vehicles.
- b) External effects (general): Noise, odor, light, dust, dirt, smoke, or other external effects from any aspect of the proposed use shall not adversely affect adjacent and neighboring properties or uses. The Site Plan is harmonious with, and not injurious or objectionable to, existing and future uses in the immediate area. The Site Plan shall be adequate to provide for the health, safety, and general welfare of the persons and property on the site and in the neighboring community.
- c) Public services and utilities: The location, availability, and compatibility of necessary improvements, including but not limited to, sewage collection and treatment, public water supply, storm drainage, lighting, roads, and parking facilities shall be considered to determine whether the use will be adequately served by necessary improvements. Utility distribution lines or associated utility installations shall be located so as to avoid adverse impacts both to neighboring properties and to the site.
- d) Dimensional requirements: The dimensional arrangement of buildings and structures shall conform to the required yards, setbacks, and height restrictions of this Ordinance.
- e) Building arrangement: The proposed buildings and structures shall have a harmonious relationship to the site, terrain, landscaping, open space, and other existing and proposed buildings and structures. The bulk, location, and height of proposed buildings and structures, as well as the general character of the development, shall minimize any adverse effect on other uses of property in the surrounding area and shall not place demands on public services or facilities greater than capacity.

- f) Drainage of surface water: Proper site surface drainage shall be provided so that the removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. If practical, storm water shall be managed with green technologies that retain water on-site and reduces or eliminates the need to be carried away in an underground drainage system. In no case shall the peak rate of storm water runoff from the site increase because of the proposed development. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and so that it will not create ponding.
- g) Exterior lighting: All lighting shall be installed and maintained in such a manner as to confine the illumination source to the property upon which the use is located and to prevent glare or illumination from adversely affecting the safety or welfare of adjacent property or streets.
- h) Signs: Signs shall be located and designed to avoid creating distraction or clutter. The size, location, design, and lighting of signs shall be consistent with this Ordinance and all applicable sign regulations.
- i) Special features: Storage areas, mechanical areas, service areas, truck loading areas, utility buildings and structures, and similar features shall be located, buffered, and/or screened to be unobtrusive. Such special features shall not interfere with access or circulation within the site or detract from the visual impression of the site. Trash containers shall be enclosed on at least three sides by a structure aesthetically compatible with the development and surrounding property. Waste storage areas shall be maintained free from litter and in a sanitary condition.
- j) Landscaping: All Existing vegetation shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Grade changes made shall be in keeping with the general appearance of neighboring developed areas. Plant materials shall be used to enhance the appearance of the site to screen unsightly or harsh elements and to provide visual relief from large monotonous features such as parking facilities.
- k) Compliance with all applicable laws: The Planning Commission shall not approve a site plan that violates or that is inconsistent with local, state, or federal laws or regulations.
- l) Exemptions: In the case of minor alterations, repair, and demolition's certain requirements for Site Plan Review may be exempted as determined by the Zoning Administrator.

#### **4.07 REGULATIONS**

The Planning Commission shall review a completed Site Plan as soon as practicable after the Village receives the completed Zoning Permit application and Site Plan. The following regulations shall apply to all site plans:

- 1) In addition to ensuring compliance with the provisions of this Ordinance, the Zoning Administrator and Planning Commission are authorized during Site Plan review to protect the public health, safety, and welfare by determining whether:



- a) The safety of pedestrian and vehicular traffic is assured.
  - b) All buildings and structures are accessible to emergency vehicles.
  - c) The natural features of the site are retained where they can enhance the development of the site, or where they furnish a buffer between adjoining properties, or where they control erosion or the discharge of storm water.
  - d) The proposed buildings or structures are situated and designed to minimize adverse effects upon owners and occupants of adjoining and nearby properties by providing for proper and adequate storm drainage, erosion control, and grading.
- 2) No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development that requires a site plan approval until an approved Site Plan has been signed by the Chairperson or Secretary of the Planning Commission.
- 3) The Chairperson or Secretary of the Planning Commission shall not sign the approved Site Plan until the applicant has submitted copies of all required permits.
- 4) The Planning Commission may approve or reject the Site Plan or may table the Site Plan for further investigation.
- 5) The rationale for Planning Commission actions regarding the Site Plan shall be clearly documented by the Secretary of the Planning Commission, and the Zoning Administrator shall notify the applicant of such action.
- 6) The approved Site Plan shall be properly filed by the Zoning Administrator, and the proposed development shall be consistent with the approved Site Plan, unless a change conforming to this Ordinance is approved.
- 7) Neither Zoning Permit nor Building Permit for the construction of improvements shall be issued for any development that requires Site Plan approval until the Chairperson or Secretary of the Planning Commission has signed an approved Site Plan.
- 8) An occupancy permit for any use requiring a site plan approval will not be issued unless the use as constructed conforms to the approved Site Plan.
- 9) Site Plans for projects within any designated Wellhead Protection Area shall include the following:
- a) List of all substances anticipated to be present in the activities of the proposed land use.
  - b) Precautions for containment of potential spills of any substance other than water.
  - c) Specify the location of flammable substances stored on the premises.
  - d) Storage Tanks. All above ground petroleum product storage tanks shall be located within an impervious containment area of sufficient design and capacity to retain the

entire contents of all tanks within the containment area, regardless of the cause of any leak, spill, or tank failure.

- e) **Roof Runoff.** All residential and commercial roof runoff shall be routed to permeable surface storage impoundments or application facilities; roof runoff may not be routed onto any public way, into the Village's storm water system, or into subsurface impoundments.
- f) **Onsite Sewage Disposal Systems.** All on-site sewage disposal systems shall be inspected by the "District 10 Health Department" and inspected at no greater than five-year intervals.
- g) **Pesticides and Soil Nutrients.**
  - 1. Pesticides and soil nutrients shall only be stored in their original packaging or containers.
  - 2. Owner applied agricultural pesticides and soil nutrients and domestic household, lawn and garden pesticides and soil nutrients shall be stored and applied in strict conformity to the instructions on the packaging or container label.
  - 3. Pesticides beyond their posted shelf life shall not be stored or applied but shall be promptly disposed of in an approved manner.

#### **4.08 CONDITIONS OF APPROVAL**

The Planning Commission may impose reasonable conditions upon the approval of a site plan, which it deems necessary to protect the safety, health, and general welfare of the Village. The Planning Commission may require changes or alterations in submitted plans and modify any requirements, provided they are in the best public interest, and so that the property will be developed in a reasonable manner, while complying with other applicable provisions of this Ordinance. The Planning Commission shall review the request based on the following conditions. The conditions may include, but are not limited to:

- 1) Ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating the increased service and facility loads caused by the land use or activity
- 2) Protecting the natural environment and conserve natural resources and energy
- 3) Ensuring compatibility with adjacent uses of land
- 4) Promoting the use of land in a socially and economically desirable manner
- 5) The proposed use or structure is in accordance with the intent of the zoning district in which it is located and is architecturally compatible with other conforming uses and structures in the zoning district
- 6) Being designed to protect natural resources; the health, safety, welfare, and social and economic well-being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; or the community as

a whole

- 7) Being related to the valid exercise of the police power
- 8) Being necessary to meet the intent and purpose of the zoning Ordinance, related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards
- 9) Providing adequate off-street parking and loading spaces in accordance with this Ordinance

#### **4.09 SURETY**

The Planning Commission may require, as a condition of approval for a Site Plan Review, a financial guarantee (surety) to guarantee the construction of required improvements acceptable to the Village in the form of a cash deposit, certified check, or irrevocable bank letter of credit to guarantee the construction and short-term maintenance of improvements required as a condition of approval.

#### **4.10 PERFORMANCE AND MAINTENANCE SURETY**

A performance and maintenance surety must be approved by the Planning Commission as to form, sufficiency, and execution. The Planning Commission will grant final approval only if the applicant posts some form of security. The applicant will submit a detailed accounting of all improvements to be completed. This detailed accounting will include the exact amount of work to be done on each specific improvement. The Village Engineer will approve the scope of improvements to be completed and estimate the cost of completing each improvement.

The Planning Commission will determine the amount of the required performance and maintenance surety and submit the estimated cost of completing all improvements to the applicant. For projects with a total construction cost of less than \$200,000, the performance and maintenance surety will be in an amount not less than 10% of the cost of installation of improvements, or a lesser amount at the discretion of the Planning Commission, but not to exceed \$10,000. For projects with a total construction cost of more than \$200,000, the performance and maintenance surety will be in an amount not less than 10% and not more than 50% of the cost of installation of improvements. In addition, projects with a total construction cost of more than \$200,000, may be allowed to post a bond, in addition to the other specified surety options listed above.

The performance and maintenance surety will be written so that each individual improvement and all conditions and agreements are covered. The performance and maintenance surety will run for a fixed term of not less than 1 year. However, the Village may extend the term of such performance and maintenance surety for an additional period.

- 1) Improvement guarantees shall be provided to ensure the proper installation and maintenance of required street, utility, and other improvements. The nature and duration of the guarantees are structured to achieve this goal without adding unnecessary costs to the applicant.
- 2) Construction or installation of improvements may not begin until the final site plan is approved.
- 3) The performance and maintenance surety may be released when all improvements are

completed, inspected, and approved to ensure that streets are properly constructed, drainage facilities properly provided, and all other utilities and improvements properly installed. Only when all improvements are completed, inspected, and approved will occupancy permits be issued, or property be allowed to be sold. However, where the applicant has satisfied the surety requirements herein, to ensure that the required improvements will be completed, the above restrictions may be modified.

4) In large projects the security may be released in stages. The applicant may be allowed to assign a portion of the total to each development stage as part of a complete phasing plan of the overall improvement. Surety for each subsequent phase depends on completion of the required improvements for the preceding phase. Where partial approval is granted, the surety may be released except that portion of improvements not yet approved, but continued adequate financial security is required before approval of the final phase.

5) Similarly, the surety may be refunded based on completion of improvements. The Planning Commission may reduce the amount of the performance guarantee when portions of the required improvements have been installed. The Village Engineer will inspect the project to determine the percent completion of improvements. The Village may release up to 85% of a pro rata portion of the surety based on the percent complete as verified by the Village Engineer

6) Besides securing the completion of improvements, the performance and maintenance surety may also be exercised to correct defects in workmanship that appear after the improvements have been inspected, approved, and accepted. An amount equal to Fifteen (15%) percent of the performance guarantee may be held as a construction warranty by the Village for a period of two years after all improvements are completed. This construction warranty will be used to cover all improvements found to be deficient.

#### **4.11 SURETY TYPES**

The following types of surety guarantees may be provided:

- 1) Letter of credit: The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
- 2) Bond: The applicant may provide a bond issued by an insurance company as a guarantee.
- 3) Escrow cash account: The applicant may deposit cash or other instruments readily convertible into cash at face value, either with the municipality, or in an escrow account held in trust by the Village or by a financial institution.
- 4) Escrow non-cash account: The applicant may escrow personal property (stocks, bonds, equipment) or mortgage or give a deed of trust on real property to the Village.
- 5) Subdivision improvement guarantee: An applicant may provide as a guarantee a 3-party subdivision improvement agreement between the applicant, lender, and the Village.

#### **4.12 PROCEDURES FOR INSPECTING, APPROVING, AND ACCEPTING IMPROVEMENTS**

- 1) Upon completion or substantial completion of all required improvements, the applicant must notify the Village in writing, and shall provide a copy to the Village Engineer. The Village Engineer will inspect all improvements of which such notice has been given and will file a detailed written

report concerning such improvements with a statement of reasons for any rejection. Inspection fees will be charged for each site visit to prevent the engineer's time from being wasted.

2) The engineering inspection report should be the basis for whether the improvements are complete or have deficiencies. The Village will notify the applicant in writing of the contents of the report and the Village's action. The cost of any rejected improvements will be set forth.

3) The applicant will be notified in writing within 60 days and given a specified period in which to complete the stated deficiencies.

4) After the applicant has completed all the required improvements and upon acceptance of all streets, facilities and other improvements, a construction warranty shall go into effect. The property owner must maintain all improvements for a period of 2 years. A construction warranty will be retained by the Village to ensure the quality of the work of the applicant and to provide a warranty against defects in improvements. Such construction warranty shall amount to the 15% remaining from the performance guarantee. Failure to repair or maintain improvements, due to faulty construction, shall constitute cause to exercise the construction warranty.

5) The construction warranty will remain in effect until released by the Village. The applicant shall be responsible for notifying the Village for the release of the construction warranty before the specified time. Such security is to guarantee the maintenance, repair, or reconstruction of the improvements for a period of 2 years.

#### **4.13 RELEASE OR EXERCISE OF SURETY**

1) In case of default of performance, the Village, upon 10-days' notice by certified mail, may undertake the completion of the required improvements, assigning the cost against the amount of the guarantee to be paid by the surety. Notice to the property owner shall be directed to the address given by the owner upon the initial application.

2) Whatever the type of surety used, the guarantee will not be released until the Village Engineer has certified that the required improvements have been completed according to specifications. A default will be declared upon expiration of the time allowed for completion of all improvements. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Village beyond the completion deadline for good cause and upon extension of the financial security. In case of exercise of the security, the proceeds from the guarantee will reflect:

- a) The cost of inflation of the labor and materials needed to complete the improvements.
- b) The special administrative costs associated with declaring a default, bidding, or programming the project, and completing the project.
- c) The unforeseen costs of remedying the damage, deterioration, or faulty workmanship associated with the work already undertaken.

#### **4.14 VIOLATIONS AND PENALTIES**

Completion of the required improvements within the time limited by the performance guarantee is a mandatory requirement of this Ordinance. Violation of mandatory performance requirements shall subject the property owner to the penalties prescribed in this Ordinance, beyond which the

Village may impose, on 10-days prior notice by certified mail, delivered to the address as shown on the initial application unless such address has been changed by subsequent notice in writing to the secretary of the Planning Commission, one or more of the following penalties until the improvements are completed:

- 1) Ordered to stop construction work.
- 2) Refuse to issue any certificates of occupancy.
- 3) Refuse to issue any Building Permits within the Village to the applicant or the applicant's principals or an entity of which the applicant or applicant's principals are a part.
- 4) Exercise a surety.

#### **4.15 EXCEPTIONS**

When other governmental agencies or public utilities automatically will own the utilities to be installed, or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee will be required by the Village for such utilities or improvements.

#### **4.16 CHANGES TO A SITE PLAN**

Changes to a site plan, following approval by the Planning Commission, in connection with a use or activity, are prohibited. Subsequent actions altering, amending, or changing the approved use or activity in any way will require approval in accordance with the following procedures:

- 1) An approved Site Plan may not be changed unless the changes in the Site Plan have been reviewed and approved by the Planning Commission except as stated herein:
- 2) The property owner or other holder of an approved Site Plan shall submit to the Zoning Administrator an application for approval of any proposed change in the approved Site Plan. The application shall be accompanied by a Site Plan, showing the change or changes for which approval is being requested. Any required application fee shall be paid at the time the application and proposed revised site plan are submitted.
- 3) Minor changes in an approved Site Plan may be approved by the Zoning Administrator, upon a determination that the proposed minor change will not alter the basic design of the development or any of the specific terms and conditions imposed as a part of the original approval of the Site Plan. Minor changes eligible for consideration and approval by the Zoning Administrator consist only of the following:
  - a) Replacement of plant material specified in the landscape plan, with comparable material.
  - b) Changes in building materials to a comparable or higher quality.
  - c) Internal rearrangement of a parking area which does not affect the number of parking spaces or traffic circulation on the site nor alter access locations or overall design of the site or parking area(s).
  - d) Changes required or requested by the Village for safety reasons.

- e) Changes that will preserve the existing natural features of the site without changing the basic site layout.
  - f) Other similar changes of a minor nature which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site, and which the Zoning Administrator determines would not have a significant adverse effect upon the subject lands, or upon adjacent or nearby lands or the public interest.
  - g) Any requested minor change submitted to the Zoning Administrator for approval, may be referred by the Administrator to the Planning Commission for decision, regardless of whether the proposed change qualifies or does not qualify as a minor change. In the case of such referral to the Planning Commission, the Commission shall make the decision on the requested change, even if the change qualifies as a minor change.
- 4) If the change requested in an approved Site Plan is not a minor change under the terms of this section, then such change shall be deemed a major change. In that event, the Site Plan, showing the major change, shall be submitted to the Planning Commission, for its review and consideration, and the procedures with respect thereto shall be the same as those required for original consideration of a site plan.
- 5) In the approval of changes in an approved Site Plan by the Zoning Administrator or by the Planning Commission, terms and conditions may be imposed thereon and the applicant shall comply with such terms and conditions.
- 6) Upon the Zoning Administrator's approval of minor changes in an approved Site Plan, the Zoning Administrator shall notify the Planning Commission of the changes approved.
- 7) Upon approval of changes in an approved Site Plan, the applicant shall promptly submit to the Zoning Administrator four copies of the Site Plan, or such additional copies as may be required by the Zoning Administrator, accurately showing the changes in the plan so approved. The Zoning Administrator shall then mark the original of the Site Plan as approved, by means of affixing a signature or other authentication and setting forth the date of the authentication.

#### **4.17 ENFORCEMENT**

A site plan, approved by the Planning Commission, in connection with a use or activity, shall have the full force and effect of the Ordinance. Subsequent actions relating to the use or activity authorized shall be consistent with the Site Plan as approved. Any violation of an approved Site Plan shall be grounds for the Village to order that all construction be stopped and to order that Zoning Permits, Building Permits, and certificates of occupancy be withheld until the violation is removed or until adequate guarantee of removal of the violation is provided to the Village. In addition, a violation of any approved Site Plan or failure to comply with any requirements of this Article, including conditions of approval, shall be considered a violation of this Ordinance.

## **ARTICLE 5**

### **ZONING DISTRICTS AND ZONING MAP**

#### **5.01 ESTABLISHMENT OF DISTRICTS**

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

R-1 - Low Density Single-family Residential District  
R-2 - Medium Density Residential District  
R-3 - High Density Residential District  
R-4 - Multiple-Family Residential District  
C-1 - Village Center Commercial District  
C-2 - General Commercial District  
I-1 - Light Industrial District  
C-PUD - Commercial Planned Unit Development Overlay District

#### **5.02 ZONING MAPS**

The boundaries of the respective districts are defined and established as depicted on the map entitled "VILLAGE OF BALDWIN ZONING MAP" which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as is fully described herein.

The Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bearing the following: "This is to certify that this is the official Zoning Map of the Village of Baldwin Zoning Ordinance adopted on October 20, 2014." If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be made on the Zoning Map after amendment has been approved by the Village Council together with an entry on the Zoning Map as follows: "On [2013], by official action of the Village Council, the following change(s) were made: [brief description with reference number to Council proceedings]."

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

#### **5.03 REPLACEMENT OF ZONING MAP**

If the Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Village Council may, by ordinance, adopt a new Zoning Map, which shall supersede the prior Zoning Map. The Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bear the seal of the Village under the following words: "This is to certify that this is the Village of Baldwin Zoning Map adopted on October 20, 2014, which replaces and supersedes the Zoning Map which was adopted on November 14, 1988."

Unless the prior Zoning Map has been lost, or has been destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.



## **5.04 INTERPRETATIONS OF DISTRICT BOUNDARIES**

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

- 1) Boundaries indicated, as approximately following the streets or highway, the centerlines of said streets or highways shall be construed to be such boundaries.
- 2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- 3) Boundaries indicated, as approximately following Village boundary lines shall be construed as following such Village boundary lines.
- 4) Boundaries indicated, as approximately following railroad lines shall be construed to be midway between the main tracks.
- 5) Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is given, such dimension shall be determined using the scale shown on the Zoning Map.
- 6) Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.
- 7) Where the application of the previously mentioned rules leaves a reasonable doubt as to the boundaries between two (2) zoning districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Zoning Board of Appeals after recommendation from the Planning Commission.

## **5.05 SCOPE OF REGULATION**

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

or loading space similarly required for any other use, building or structure.

4) No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

5) No portion of one lot once established and/or improved with a building or structure shall be sold unless each lot resulting from each such reduction, division, or sale, shall conform to all the requirements established herein.

6) Accessory uses are permitted as indicated for the various zoning districts if such uses are clearly incidental to the permitted principal uses.

#### **5.06 ZONING OF VACATED AREAS**

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

#### **5.07 ZONING OF FILLED LANDS**

Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this Ordinance for such adjoining lands.

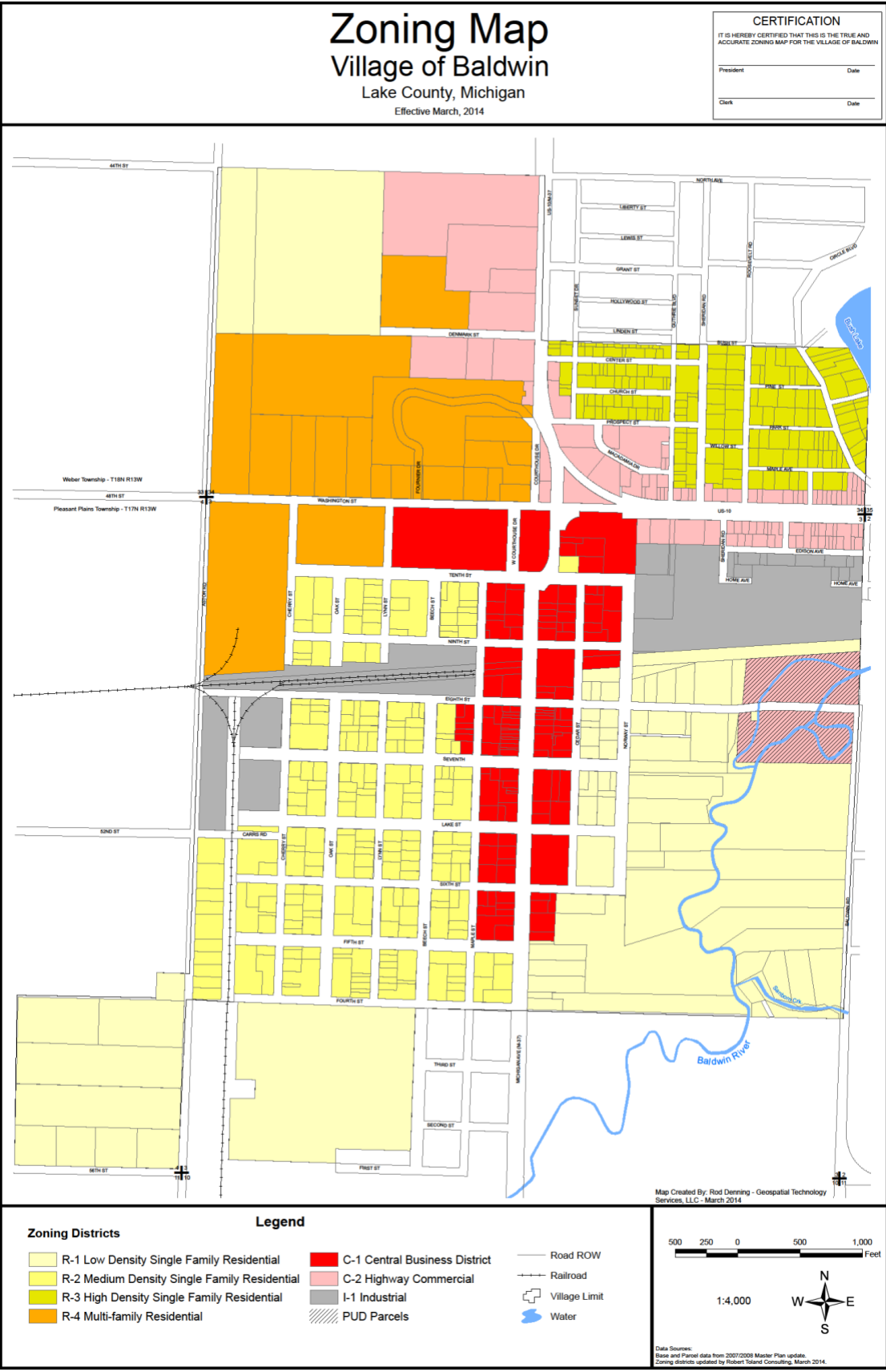
#### **5.08 CONFLICTING REGULATIONS**

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

#### **5.09 CATEGORIES WITHIN ZONING DISTRICTS**

In order to ensure all benefits and protection for the zoning districts in this Ordinance, the land uses have been classified into three (3) basic categories:

- 1) Principal uses permitted by right, which are the primary uses and structures specified for which the zoning district has been established.
- 2) Accessory uses.
- 3) Special land uses.



## **ARTICLE 6**

### **R-1 LOW-DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT (LDR)**

#### **6.01 INTENT AND PURPOSE**

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

#### **6.02 USES ALLOWED**

- 1) Single-family dwellings
- 2) Duplexes
- 3) Subdivisions
- 4) Conversion of single-family dwellings
- 5) Institutions such as churches, convents, cemeteries, schools, and senior citizen centers
- 6) Public facilities and community service installations such as publicly owned and operated buildings, including libraries, telephone exchange buildings, transformer stations and substations, and other public utility buildings and structures
- 7) Public parks

#### **6.03 ACCESSORY BUILDINGS, STRUCTURES, AND USES**

- 1) Adult Foster Care Family Home
- 2) Adult Foster Care Small Group Home
- 3) Automobile parking
- 4) Children's Play Equipment
- 5) Family Child Care Homes
- 6) Foster Family Homes
- 7) Foster Family Group Homes
- 8) Garages
- 9) Home occupations
- 10) Personal Pet Facilities, including dog runs.
- 11) Private gardens and/or greenhouses for growing plants, flowers, or produce.

- 12) Sheds and Storage Buildings
- 13) Swimming pools
- 14) Signs
- 15) Walls and Fences

#### **6.04 SPECIAL LAND USE PERMITS (See Special Land Uses)**

- 1) Group Child Care Homes
- 2) Essential Government Services

#### **6.05 SITE DEVELOPMENT REQUIREMENTS**

The following minimum and maximum standards shall apply to all uses and structures in the Single-Family Residential District (R-1) except as modified or as varied by the General Provisions or Site Plan requirements of this Ordinance, or by variance granted by the Zoning Board of Appeals.

- 1) **Minimum Lot Area:** No single-family dwelling shall be established on any parcel less than 15,000 square feet in size/no duplex shall be established on any parcel less than 20,000 square feet.
- 2) **Minimum Lot Frontage and Lot Width:** Each parcel shall have continuous frontage along a public thoroughfare of not less than fifty (50) feet for a single-family dwelling or less than one hundred (100) feet for a duplex. No part of the lot may be less than the required minimum.
- 3) Setbacks:
  - a) Front: thirty (30) feet from right-of-way.
  - b) Side: ten (10) feet.
  - c) Rear: thirty-five (35) feet.
- 4) **Maximum Height:** No principal or accessory building or structure shall exceed thirty-five (35) feet in height from the average finished grade.
- 5) **Maximum Lot Coverage:** Thirty (30) percent

#### **6.06 PERFORMANCE STANDARDS**

- 1) **Minimum Building Gross Floor Area:** Every single-family dwelling shall have a minimum gross finished floor area of not less than seven hundred twenty (720) square feet, exclusive of basements, garages, porches, and breezeways with a minimum 720 square feet Gross Floor Area on the first floor. Every duplex dwelling shall have a minimum gross finished floor area per unit of seven hundred fifty (750) square feet. No dwelling shall have a width of less than 24 feet.

## **ARTICLE 7**

### **R-2 MEDIUM-DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT (MDR)**

#### **7.01 INTENT AND PURPOSE**

This District is intended for residential and associated uses, including certain related non-residential uses. The purpose of this District is to allow a greater density of development introducing a greater urban influence and maximizing the availability of public services.

#### **7.02 USES ALLOWED**

Land and/or buildings in the MDR District may be used for the following purposes as Uses Permitted by Right:

- 1) Single-family dwellings
- 2) Duplexes
- 3) Subdivisions
- 4) Conversion of single-family dwellings
- 5) Institutions such as churches, convents, cemeteries, schools, and senior citizen centers
- 6) Public facilities and community service installations such as publicly owned and operated buildings, including libraries, telephone exchange buildings, transformer stations and substations, and other public utility buildings and structures
- 7) Public parks

#### **7.03 ACCESSORY BUILDINGS, STRUCTURES, AND USES**

As may be regulated by the General provisions section of this ordinance:

- 1) Adult Foster Care Family Home
- 2) Adult Foster Care Small Group Home
- 3) Antennae/satellite dishes
- 4) Children's play equipment
- 5) Family Child Care Homes
- 6) Foster Family Homes
- 7) Foster Family Group Homes
- 8) Garages

- 9) Home occupations
- 10) Personal Pet Facilities, including dog runs
- 11) Private gardens and/or greenhouses for growing plants, flowers, or produce
- 12) Sheds and Storage Buildings
- 13) Swimming pools
- 14) Temporary stands for display or sale of garden products raised on the premises if the size of any such stand does not exceed 100 square feet of floor area and may not operate for more than ten days every six months
- 15) Temporary display or sale of used household goods originating from the premises if the size of any such stand does not exceed 400 square feet of floor area and may not operate for more than 4 days every month
- 16) Walls and Fences

#### **7.04 SPECIAL LAND USE PERMITS (See Special Land Uses)**

Land and/or buildings in the MDR District may be used for the following purposes following review by the Planning Commission as a Special Land Use.

- 1) Alternative Energy Sources
- 2) Group Childcare Homes
- 3) Public Parks and Playgrounds
- 4) Planned Unit Developments
- 5) Bed and Breakfast Establishments
- 6) Schools, Churches, Libraries, and Community Center Buildings
- 7) Essential Government Services

#### **7.05 SITE DEVELOPMENT REQUIREMENTS**

No building or structure, nor the enlargement of any building or structure, shall be erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

The following minimum and maximum standards shall apply to all uses and structures in the Single-Family Residential District (R-1) except as modified or as varied by the General Provisions or Site Plan requirements of this Ordinance, or by variance granted by the Zoning Board of Appeals.

- 1) **Minimum Lot Area:** No single-family dwelling shall be established on any parcel less than

12,000 square feet in size. No duplex shall be established on any parcel less than 15,000 square feet.

2) **Minimum Lot Frontage and Lot Width:** Each parcel shall have continuous frontage along a public thoroughfare of not less than eighty (80) feet for a single-family dwelling or less than one hundred (100) feet for a duplex. No part of the lot may be less than the required minimum.

3) **Setbacks:**

a) Front: Thirty (30) feet from right-of-way. For corner lots, the setback facing the street shall be twenty (20) feet.

b) Side: Ten (10) feet.

c) Rear: Fifty (50) feet.

4) **Maximum Height:** No structure shall exceed thirty-five (35) feet in height from the average finished grade or 2 ½ stories.

5) **Maximum Lot Coverage:** Forty (40) percent

#### **7.06 PERFORMANCE STANDARDS**

1) **Minimum Dwelling Unit Gross Floor Area:** Every single-family dwelling shall have a minimum gross finished floor area of not less than one thousand (1,000) square feet exclusive of basements, garages, porches, and breezeways with a minimum 700 square feet Gross Floor Area on the first floor. Every duplex dwelling shall have a minimum gross finished floor area per unit of seven hundred fifty (750) square feet. No dwelling shall have a width of less than 24 feet.



## **ARTICLE 8**

### **R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT (HDR)**

#### **8.01 INTENT AND PURPOSE**

These areas of dense residential development are typically older neighborhoods with small lots resulting from original plats. Within any R-3 District, no structure or premises shall be used, erected, converted, or altered externally in whole or in part unless herein provided, for any other than one or more of the following permitted uses.

#### **8.02 USES ALLOWED**

Single-family dwellings

#### **8.03 ACCESSORY BUILDINGS, STRUCTURES AND USES**

- 1) Adult Foster Care Family Home
- 2) Adult Foster Care Small Group Home
- 3) Antennae/satellite dishes
- 4) Children's play equipment
- 5) Family Child Care Homes
- 6) Foster Family Homes
- 7) Foster Family Group Homes
- 8) Home occupations
- 9) Garages
- 10) Storage buildings
- 11) Personal Pet Facilities, including dog runs
- 12) Private gardens and/or greenhouses when plants, flowers, or produce is not offered for sale
- 13) State Licensed Residential Facilities for six persons or less
- 14) Swimming pools
- 15) Temporary display or sale of used household goods originating from the premises if the size of any such stand does not exceed 400 square feet of floor area and may not operate for more than ten consecutive days every six months

#### **8.04 SPECIAL LAND USE PERMITS (See Special Land Uses)**

- 1) Bed and breakfasts
- 2) Educational Services
- 3) Essential Government Services
- 4) Public and institutional uses
- 5) Public Utility facilities (without storage yards)
- 6) Group Childcare

#### **8.05 SITE DEVELOPMENT REQUIREMENTS**

All principal uses, accessory uses, and special uses in the R-3 District will be subject to area, height, and location regulations as specified on the accompanying schedule, and off-street parking regulations according to this Ordinance. The following minimum and maximum standards shall apply to all uses and structures in the Single-Family Residential District (R-1) except as modified or as varied by the General Provisions or Site Plan requirements of this Ordinance, or by variance granted by the Zoning Board of Appeals.

- 1) **Minimum Lot Area:** No single-family dwelling shall be established on any parcel less than 5,000 square feet in size. No duplex shall be established on any parcel less than 7,500 square feet.
- 2) **Minimum Lot Frontage and Lot Width:** Each parcel shall have continuous frontage along a public thoroughfare of not less than fifty (50) feet for a single-family dwelling or less than one hundred (75) feet for a duplex. No part of the lot may be less than the required minimum.
- 3) **Setbacks:**
  - a) Front: Twenty-Five (25) feet from right-of-way. For corner lots, the setback facing the street shall be twenty (20) feet.
  - b) Side: Ten (10) feet.
  - c) Rear: Ten (10) feet.
- 4) **Maximum Height:** No structure shall exceed thirty-five (35) feet in height from the average finished grade or 2 ½ stories.
- 5) **Maximum Lot Coverage:** Fifty (50) percent

#### **8.06 PERFORMANCE STANDARDS**

- 1) **Minimum Building Gross Floor Area:** Every single-family dwelling shall have a minimum gross finished floor area of not less than nine hundred sixty (960) square feet, exclusive of basements, garages, porches, and breezeways. Every duplex dwelling shall have a minimum gross finished floor area per unit of seven hundred fifty (750) square feet. No

dwelling shall have a width of less than 24 feet.

## **8.07 TINY HOMES**

For the purposes of this ordinance, a tiny home shall be defined as a principal residential dwelling that has a square footage of between 120 and 960 square feet and is a structure which is intended as a full-time residence.

Tiny Homes are permitted in the R-3 High Density Single Family Residential District as follows:

1. Each dwelling unit shall have a minimum gross floor area of not less than 120 square feet.
2. Every dwelling unit of two or more rooms, occupied for sleeping purposes shall contain at least 100 square feet of floor space per bedroom.
3. Every habitable room, foyer, bathroom, hall, or corridor shall have a ceiling height of at least seven feet. If any room has a sloping ceiling a knee wall is required, the lowest ceiling height for the room shall be not less than 4 feet.
4. A tiny home must meet the minimum requirements of the Michigan Residential Code and obtain a building permit, including frost proof footings.
5. Tiny homes shall have two covered entryways.
6. All parcels for tiny homes must meet the Development Requirements of the R-3 zoning district.
7. One accessory building is permitted per each tiny home and may not exceed 50% of the gross floor area of the dwelling.

## ARTICLE 9

### R-4 MULTI-FAMILY RESIDENTIAL DISTRICT (MFR)

#### 9.01 INTENT AND PURPOSE

It is the intent of this district to provide for a diverse residential environment by allowing duplexes, and multiple-family dwellings, which meet the requirements of this district. Provisions are also made within this district to provide for grouped housing developments such as subdivisions; apartment complexes comprised of structures customarily known as garden apartments, terrace apartments, townhouses, row-housing units, and other housing structures of similar character; and Manufactured Housing Communities.

#### 9.02 USES ALLOWED

- 1) Multiple-family dwellings
- 2) Manufactured Housing Communities

#### 9.03 ACCESSORY BUILDINGS, STRUCTURES AND USES

- 1) All accessory uses permitted in the Single-family Residential District (R-1).

#### 9.04 SPECIAL LAND USE PERMITS (See Special Land Uses)

- 1) Hospitals, nursing homes, and other facilities for human health care

#### 9.05 SITE DEVELOPMENT REQUIREMENTS

The following maximum and minimum standards shall apply to all uses and structures in the Multi-Family Residential District (R-4) except as modified or as varied by the General Provisions or Site Plan requirements of this Ordinance, or by variance granted by the Zoning Board of Appeals.

- 1) **Minimum Lot Area:** No residential building of two (2) or more dwelling units shall be established on any parcel of a size less than 20,000 square feet per dwelling unit.
- 2) **Minimum Lot Frontage and Lot Width:** Each parcel of land shall have continuous frontage along a public thoroughfare of not less than fifty (50) feet per dwelling unit. The minimum lot width shall not be less than fifty (50) feet per dwelling unit. No part of the lot may be less than the required minimum.
- 3) **Setbacks:**
  - a) Front: Thirty (30) feet from right-of-way (corner lot 20 feet)
  - b) Side: Twenty (20) feet
  - c) Rear: Thirty-five (35) feet
  - d) The minimum separation between principal buildings on a parcel (front-to-front, rear-to-rear, or front to rear) shall be twenty (20) feet.

4) **Maximum Height:** No principal structure shall exceed thirty-five (35) feet in height from the average finished grade.

5) **Maximum Lot Coverage:** Fifty (50) percent

#### **9.06 PERFORMANCE STANDARDS**

1) **Minimum Dwelling Unit Minimum Gross Floor Area:**

1.	Studio	480 square feet
2.	1 bedroom	600 square feet
3.	2-bedroom	750 square feet
4.	3-bedroom	900 square feet
5.	4 or more	1,000 square feet plus an additional 100 square feet for every bedroom more than four (4).

2) **Streets and Access Ways:** All streets and access ways, public or private shall meet the requirements and specifications of the Village of Baldwin.

3) **Siting:** No dwelling in a grouped housing development shall be closer to a street access drive or a parking area than fifteen (15) feet.

4) **Screened Buffer Strip:** When a side or rear lot line abuts property in the R-1 Zoning District, a well-maintained buffer strip no less than ten feet in width shall be required within the side yard and/or rear yard setbacks along shared lot lines. The buffer strip shall contain a well-maintained opaque fence or wall no less than six feet in height. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles or be closer than thirty (30) feet to any street right-of-way line.

## **ARTICLE 10**

### **C-1 VILLAGE CENTER COMMERCIAL DISTRICT**

#### **10.01 INTENT AND PURPOSE**

It is the intent of this district to provide for office buildings and the great variety of retail stores and related activities, which occupy prime retail frontage in the downtown area and serves comparison, convenience, and service needs of the Village of Baldwin and Lake County. The district regulations are designed to promote convenient pedestrian shopping and stability of retail development by encouraging a contiguous retail frontage and by prohibiting highway service businesses, which tend to break up such continuity. The Village Center Commercial district will incorporate residential development, by allowing upper floor residential dwellings above commercial uses. New first floor residential uses are prohibited. Pedestrian orientation and amenities will be emphasized.

#### **10.02 USES ALLOWED**

Accounting Services such as Offices of Certified Public Accountants, Tax Preparation  
Administrative Management and General Management Consulting Services  
Advertising Services such as Advertising Agencies, Public Relations Agencies, Media Buying  
Agencies, Media Representatives, Display Advertising, Direct Mail Advertising, Advertising  
Material Distribution Services, Marketing Research and Public Opinion Polling  
Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures  
Ambulance Services  
Ambulatory Health Care Services such as Surgical and Emergency Centers and all Other  
Outpatient Care  
Amusement Arcades  
Architectural Services  
Art Dealers  
Auto Rental and Leasing  
Automotive Parts and Accessories Stores

Baked Goods Stores  
Beer, Wine, and Liquor Stores  
Blood and Organ Banks  
Book Stores  
Bowling Centers  
Building Inspection Services  
Building material suppliers  
Business Associations

Cafeterias  
Camera and Photographic Supplies Stores  
Caterers (including Banquet Halls)  
Child and Youth Services  
Child Day Care Services  
Civic and Social Organizations  
Clothing Stores  
Coin-Operated Laundries and Drycleaners  
Commercial Photography

Community Food Services  
Community Housing Services  
Compact Disc, Tape, and Record Stores  
Computer and Office Machine Repair and Maintenance  
Computer and Software Stores  
Computer Facilities Management Services and Design Services  
Computer Related Services such as Computer Programming Services, Computer Systems  
Confectionery and Nut Stores  
Consumer Electronics and Appliances Rental  
Consumer Electronics Repair and Maintenance  
Consumer Lending  
Continuing Care Retirement Communities  
Convenience Stores  
Cosmetics, Beauty Supplies, and Perfume Stores  
Credit Card Issuing

Department Stores  
Depository Credit Intermediation  
Diagnostic Imaging Centers  
Discount Department Stores  
Drafting Services  
Drinking Places (Alcoholic Beverages)

Emergency and Other Relief Services  
Engineering Services  
Environment, Conservation and Wildlife Organizations  
Environmental Consulting Services such as Professional, Scientific, Technical, Process, Physical  
Distribution and Logistics

Family Planning Centers  
Financial Investment Activities such as Financial Transactions Processing, Reserve, and  
Clearinghouse Activities, Investment Banking and Securities Dealing, Securities Brokerage,  
Commodity Contracts Dealing, Commodity Contracts Brokerage and Securities and  
Commodity Exchanges  
Fish and Seafood Markets  
Fitness and Recreational Sports Centers  
Floor Covering Stores  
Florists  
Food (Health) Supplement Stores  
Food Service Contractors  
Footwear and Leather Goods Repair  
Formal Wear and Costume Rental  
Fruit and Vegetable Markets  
Funeral Homes and Funeral Services  
Furniture Repair and Reupholsters  
Furniture Stores

General Medical and Surgical Hospitals  
General Merchandise Stores  
General Rental Centers  
Geophysical Surveying and Mapping Services

Gift, Novelty, and Souvenir Stores  
Grant Making Foundations and Giving Services  
Graphic Design Services

Hardware Stores  
Health and Personal Care Stores  
Historical Sites  
HMO Medical Centers  
Hobby, Toy, and Game Stores  
Home Centers  
Home Furnishings Stores  
Home Health Care Services  
Home Health Equipment Rental  
Homes for the Elderly  
Household Appliance Stores  
Human Resources and Executive Search Consulting Services  
Human Rights Organizations

Independent Artists, Writers, and Performers  
Industrial Design Services  
Insurance Related Activities, such as Direct Life Insurance Carriers, Direct Health and Medical Insurance Carriers, Direct Property and Casualty Insurance Carriers, Direct Title Insurance Carriers, Reinsurance Carriers, Insurance Agencies and Brokerages, Claims Adjusting, Third Party Administration of Insurance and Pension Funds, Pension Funds, Health and Welfare Funds and other Insurance Funds  
Interior Design Services  
International Trade Financing  
Investment Advice and Open-End Investment Funds

Jewelry Stores

Kidney Dialysis Centers

Landscape Architectural Services  
Libraries  
Luggage and Leather Goods Stores

Management Consulting Services  
Marketing Consulting Services  
Meat Markets  
Medical Laboratories  
Miscellaneous Intermediation and all other activities related to Credit Intermediation  
Monetary Authorities such as Commercial Banking, Savings Institutions, and Credit Unions  
Mortgage and Non-mortgage Loan Brokers  
Museums  
Musical Instrument and Supplies Stores

News Dealers and Newsstands  
Non-depository Credit Intermediation  
Nursing Care Facilities



Office Machinery and Equipment Rental and Leasing  
Office Supplies and Stationery Stores  
Offices of Lawyers and other Legal Services  
Offices of Notaries  
Offices of Physicians, Mental Health Specialists, Dentists, Chiropractors, Optometrists, Mental Health Practitioners, Physical, Occupational and Speech Therapists, Audiologists, Podiatrists, and all other miscellaneous Health Practitioners  
Optical Goods Stores  
Outpatient Mental Health and Substance Abuse Centers

Paint and Wallpaper Stores  
Parking Lots and Parking Garages  
Personal and Household Goods Repair and Maintenance  
Personal Care Services such as Barber Shops, Beauty Salons, Nail Salons, Diet and Weight Reducing Centers  
Pet and Pet Supplies Stores  
Pharmacies and Drug Stores  
Photofinishing  
Photography Studios, Portrait  
Pool or Billiards Halls  
Portfolio Management  
Professional Organizations such as Labor Unions and Similar Labor Organizations, Political Organizations, and other Similar Organizations  
Promoters of Performing Arts, Sports, and Similar Events with and without Facilities  
Psychiatric and Substance Abuse Hospitals  
Public parks; pursuant to Section 6.21  
Public utility buildings and structures; pursuant to Section 6.19  
Publicly owned and operated buildings

Quick Print shops

Radio, Television, and other Electronics Stores  
Real Estate Activities such as Real Estate Investment Trusts, Lessors of Residential Buildings and Dwellings, Lessors of Nonresidential Buildings (except Mini Warehouses), Lessors of other Real Estate Property, Offices of Real Estate Agents and Brokers, Residential Property Managers, Nonresidential Property Managers, and Offices of Real Estate Appraisers  
Real Estate Credit  
Recreational Goods Rental  
Religious Organizations  
Research and Development in the Physical, Engineering, and Life Sciences, Social Sciences and Humanities  
Residential Care Facilities and Individual and Family Services  
Residential Mental Health, Retardation and Substance Abuse Facilities  
Restaurants, Full-Service and Limited-Service

Sales Financing  
Secondary Market Financing  
Services and Payroll Services  
Services for the Elderly and Persons with Disabilities  
Sewing, Needlework, and Piece Goods Stores  
Shoe Stores

Snack and Nonalcoholic Beverage Bars  
Social Advocacy Organizations  
Specialized Design Services  
Specialty Food Stores  
Specialty Hospitals  
Sporting Goods Stores  
Sports Teams and Clubs  
Supermarkets and Grocery Stores  
Surveying and Mapping (except Geophysical) Services

Telephone exchange buildings, transformer stations and substations  
Temporary Shelters  
Testing Laboratories  
Theater Companies, Dance Companies, Musical Groups and Artists, Dinner Theaters, and other  
Performing Arts Companies  
Title Abstract and Settlement Offices  
Tobacco Stores  
Translation and Interpretation Services  
Trust, Fiduciary, Trusts, Estates, Agency Accounts and Custody Activities

Used Merchandise Stores

Video Tape and Disc Rental  
Vocational Rehabilitation Services  
Voluntary Health Organizations

Window Treatment Stores

### **10.03 ACCESSORY BUILDINGS, STRUCTURES, AND USES**

- 1) Signs, pursuant to the requirements of this ordinance.
- 2) Automobile parking, pursuant to the requirements of this ordinance.
- 3) Accessory buildings, pursuant to the requirements of this ordinance.

### **10.04 SPECIAL LAND USE PERMITS (See Special Land Uses)**

- 1) Essential Government Services
- 2) Multiple Commercial Facilities
- 3) Gasoline Stations
- 4) Vehicle Service and Repair Garages
- 4) Self-Storage Facilities
- 5) Upper Floor Residential Dwellings

## 10.05 SITE DEVELOPMENT REQUIREMENTS

The following minimum and maximum standards shall apply to all uses in the Village Center Commercial District (C-1), except as modified or as varied by the General Provisions or Site Plan requirements of this Ordinance, or by variance granted by the Zoning Board of Appeals. Site Plan Review is required for all uses.

- 1) **Minimum Lot Area**: No building shall be established on any parcel of a size less than 5,000 square feet.
- 2) **Minimum Lot Frontage and Lot Width**: Each parcel of land shall have continuous frontage along a public thoroughfare of not less than fifty (50) feet. No part of the lot may be less than the required minimum.
- 3) **Setbacks**:
  - a) Front– None
  - b) Side– None
  - c) Rear– None
- 4) **Maximum Height**: No principal structure shall exceed thirty-five (35) feet in height from the average finished grade.
- 5) **Maximum Lot Coverage**: Sixty-five (65) percent

## 10.06 PERFORMANCE STANDARDS

- 1) **Storage**: All storage of materials, on any land, shall be within the confines of the building, or part thereof, occupied by said establishment. Material, which normally and reasonably discarded from commercial uses of property, may be externally stored for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than six (6) feet in height.
- 2) **Screened Buffer Strip**: When a side or rear lot line abuts property in the R-1 or R-2 Zoning Districts, a well-maintained buffer strip no less than ten feet in width shall be required within the side yard and/or rear yard setbacks along shared lot lines. The buffer strip shall contain a well-maintained opaque fence or wall no less than six feet in height. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles or be closer than thirty (30) feet to any street right-of-way line.
- 3) **Minimum Building Gross Floor Area**: Every principal use shall have a minimum gross floor area of not less than six hundred (600) square feet.

## **ARTICLE 11**

### **C-2 GENERAL COMMERCIAL DISTRICT**

#### **11.01 INTENT AND PURPOSE**

It is the intent of this district to provide areas for commercial establishments that are incompatible with pedestrian movement and serve highway traffic, or which are not engaged primarily in retail sales or service.

#### **11.02 USES ALLOWED**

- 1) All uses permitted by right in the C-1 district
- 2) Sales or service of new and used automobiles, farm implements, and recreational vehicles
- 3) Bus passenger stations
- 4) Commercial dry-cleaning operations
- 5) Commercial recreation, such as miniature golf courses and golf driving ranges
- 6) Fast-food restaurants
- 7) Hotels, motels, and motor inns
- 8) Veterinary hospitals and kennels
- 9) Self-storage operations
- 10) Other uses similar to the uses herein listed in the type of services or goods available or similar in the impact upon residential uses, including off-premises signs

#### **11.03 ACCESSORY BUILDINGS, STRUCTURES, AND USES**

- 1) All accessory uses permitted in the Village Center Commercial District (C-1)

#### **11.04 SPECIAL LAND USE PERMITS (See Special Land Uses)**

- 1) Essential Government Services
- 2) Multiple Commercial Facilities
- 3) Private Recreational Areas
- 4) Gasoline Service Stations, Parking Garages, and Commercial Garages

#### **11.05 SITE DEVELOPMENT REQUIREMENTS**

The following minimum and maximum standards shall apply to all uses in the General Commercial District (C-2), except as modified or as varied by the General Provisions or Site Plan requirements

of this Ordinance, or by variance granted by the Zoning Board of Appeals.

- 1) **Minimum Lot Area:** No building shall be established on any parcel of a size less than three thousand seven hundred fifty (3,750) square feet.
- 2) **Minimum Lot Frontage and Lot Width:** Each parcel of land shall have continuous frontage along a public thoroughfare of not less than fifty (50) feet. No part of the lot may be less than the required minimum.
- 3) **Setbacks:**
  - a) Front: Thirty (30) feet from the right-of-way.
  - b) Side: Ten (10) feet except in the case of corner lot where the side yard on the street side shall be thirty (30) feet.
  - c) Rear: thirty-five (35) feet.
- 4) **Maximum Height:** No principal structure shall exceed thirty-five (35) feet in height from the average finished grade.
- 5) **Maximum Lot Coverage:** Fifty (50) percent

#### **11.06 PERFORMANCE STANDARDS**

- 1) **Storage:** Storage of materials or goods shall be enclosed entirely within a building or shall be completely screened by an opaque fence or wall of not less than six (6) feet in height.
- 2) **Driveways:** Vehicle ingress and egress points shall not be closer than sixty (60) feet to the intersection of any two (2) public streets or closer than thirty (30) feet to an adjacent driveway.
- 3) **Repairs:** No major repairs or refinishing shall be done on outside lots intended for display or sales areas.
- 4) **Lighting:** No lighting shall in any way impair the safe movement of traffic on any street or highway.
- 5) **Traffic Stacking:** There must be sufficient on-site storage to accommodate at least two (2) queued vehicles waiting to park or exit the site without using any portion of the public street right-of-way or in any other way interfering with street traffic.
- 6) **Screened Buffer Strip:** When a side or rear lot line abuts property in the R-1 or R-2 Zoning Districts, a well-maintained buffer strip no less than ten feet in width shall be required within the side yard and/or rear yard setbacks along shared lot lines. The buffer strip shall contain a well-maintained opaque fence no less than six feet in height. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles or be closer than thirty (30) feet to any street right-of-way line.
- 7) **Minimum Building Gross Floor Area:** Every principal use shall have a minimum gross floor area of one thousand two hundred fifty (1,250) square feet.

## **ARTICLE 12**

### **I-1 LIGHT INDUSTRIAL DISTRICT**

#### **12.01 INTENT AND PURPOSE**

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

#### **12.02 USES ALLOWED**

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

1) Light industrial establishments, which perform assembly, fabrication, compounding, manufacture, or treatment of materials, goods, and products, including but not limited to:

- a) Auto Body Repair
- b) Jobbing and machine shops
- c) Fabricated metal products
- d) Plastic products, forming and molding.
- e) Processing of machine parts
- f) Monument and art stone production
- g) Industrial laundry operations
- h) Wood products processing facility
- i) Printing and publishing
- j) Food processing plants
- k) Storage facilities for building materials, sand, gravel, stone, lumber, and contractor's equipment.
- l) Commercial freestanding towers pursuant to the requirements of this ordinance
- m) Industrial parks
- n) Railroad buildings and structures
- o) Other uses like the uses herein listed or similar in the impact upon residential uses, including off-premises signs.

### **12.03 ACCESSORY BUILDINGS, STRUCTURES, AND USES**

- 1) Signs, pursuant to the requirements of this ordinance
- 2) Automobile parking pursuant to the requirements of this ordinance
- 3) Accessory buildings pursuant to the requirements of this ordinance
- 4) Incidental offices for management and materials control.
- 5) Restaurant or cafeteria facilities for employees working on the premises.

### **12.04 SPECIAL LAND USE PERMITS (See Special Land Uses)**

- 1) Essential Government Services

### **12.05 PROHIBITED USES**

Prohibited uses include all uses not like the uses herein listed or not similar in the impact upon residential uses, including, but not limited to:

- 1) Automobile salvage yards
- 2) Junk yards
- 3) Slaughterhouses
- 4) Storage farms for flammable fuels
- 5) Waste Transfer Stations

### **12.06 SITE DEVELOPMENT REQUIREMENTS**

The following maximum and minimum standards shall apply to all uses in the Light Industrial District (I-1), except as modified or as varied by the General Provisions or Site Plan requirements of this Ordinance, or by variance granted by the Zoning Board of Appeals.

- 1) **Minimum Lot Area:** No building, structure, or permitted use shall be established on any parcel less than two (2) acres in size.
- 2) **Minimum Lot Frontage and Lot Width:** Each parcel of land shall have continuous frontage of not less than two hundred (200) feet along a public thoroughfare. No part of the lot may be less than the required minimum.
- 3) **Setbacks:**
  - a) Front yard: fifty (50) feet from right-of-way
  - b) Side yards: fifty (50) feet
  - c) Rear yard: fifty (50) feet

- d) Lots adjacent to railroad rights-of-way: When industrial parcels are adjacent to railroad rights-of-way, the side and rear yard requirements will be waived, and setbacks can be zero (0) feet from the right-of-way line.

4) **Maximum Height**: No structure shall exceed thirty-five (35) feet in height from the average finished grade.

5) **Maximum Lot Coverage**: sixty (60) percent

## 12.07 PERFORMANCE STANDARDS

1) **Storage**: External areas for storage shall be screened on all sides by an opaque fence of not less than six feet in height.

2) **Screened Buffer Strip**: When a side or rear lot line abuts property in the R-1 or R-2 Zoning Districts, a well-maintained buffer strip no less than ten (10) feet in width shall be required within the side yard and/or rear yard setbacks along shared lot lines. The buffer strip shall contain a well-maintained opaque fence or wall no less than six (6) feet in height. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles or be closer than thirty (30) feet to any street right-of-way line.

3) **Nuisances**: Performance standards for sound, vibration, odor, gasses, glare, heat, light, electromagnetic radiation, smoke, dust, dirt, fly ash, drifted and blown material:

- a) **Sound**: The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

Decibels (dba)	Adjacent Use	Where Measured
55	Residential Dwellings	Common Lot Line
65	Commercial	Common Lot Line
70	Industrial and Other	Common Lot Line

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

- b) **Vibration**: All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured at any lot line.
- c) **Odor**: The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air of as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- d) **Gasses**: The escape of or emission of any gas, which is injurious, destructive, or explosive, shall be unlawful and may summarily cause to be abated.
- e) **Glare and Heat**: Any operation producing intense glare or heat shall be performed within an enclosure to completely obscure and shield such operation from direct view from any



point along the lot line except during the period of construction of the facilities to be used and occupied.

- f) Light: Exterior lighting shall be so installed that the surface of the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one foot candle power of light cross a lot line five (5) feet above the ground in a residential district.
- g) Electromagnetic Radiation: Applicable rules and regulations of the Federal Communications Commission concerning propagation of electromagnetic radiation shall be used as standards for this Ordinance.
- h) Smoke, Dust, Dirt and Fly Ash: It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than four (4) minutes in any one-half (1/2) hour which is:

1. As dark or darker in shade as designated as Number 2 on the Ringlemann Chart. The Ringlemann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this Ordinance, shall be the standard.

However, the Unbrascopes readings of smoke densities may be used when correlated with the Ringlemann Chart.

2. Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described above, except when the emission consists only of water vapor.

The quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of the charring medium at a temperature of 500 degrees Fahrenheit.

- i) Drifted and Blown Material: The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.
- j) Radioactive Materials: Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
- k) Other Forms of Air Pollution: It shall be unlawful to discharge into the atmosphere any substance not covered in parts C, D, and H and more than the standards approved by the Michigan Department of Natural Resources and Environment.
- l) Solid or Liquid Wastes: It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land, or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Natural Resources and Environment.
- m) Hazardous Wastes: Hazardous wastes as defined by the Michigan Department of Natural Resources and Environment shall be disposed of by methods approved by the Michigan Department of Natural Resources and Environment.

- 4) **Minimum Building Gross Floor Area:** Every principal use shall have a minimum gross floor area of one thousand two hundred fifty (1,250) square feet

## ARTICLE 13

### C-PUD - COMMERCIAL PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

#### 13.01 INTENT AND PURPOSE

The intent of Commercial Planned Unit Developments (C-PUD) is to permit greater flexibility and consequently more creative design of various types of development than are possible under conventional zoning regulations. It is the intention of this Article to allow flexible land use composition and design without sacrificing the basic principles of sound zoning practice. The basic zoning districts and their permitted uses as established in this Ordinance will form the basis for designing a combination of uses permitted in each district in the form of clustering principal uses and activities that may not otherwise be possible under the respective district regulations while maintaining the overall density of development consistent with the district regulations. This C-PUD District is also intended to allow activities from several districts as one project on the same clustering principle. This C-PUD District is intended to minimize development impacts upon important environmental natural features, to provide for a more economical arrangement of on-site infrastructure by permitting principal uses to be more consolidated on one portion of a C-PUD site while retaining overall density objectives.

#### 13.02 APPLICABILITY

The C-PUD Overlay Zoning District shall be allowed in the R-2, C-1 and C-2 zoning districts only.

#### 13.03 PERMITTED PRINCIPAL AND ACCESSORY USES

In the Commercial Planned Unit Development Districts, the following provisions, regulations, and restrictions shall apply:

##### 1) Permitted Principal Uses

- a) All principal permitted uses and special uses allowed in the R-1, R-2, C-1, and C-2 zoning districts on parcels of at least 2.5 acres, provided such projects meet the requirements of this ordinance.
- b) Private Recreation - Commercial operation for the entertainment of customers including but not limited to such activities as campgrounds, fishponds, and related activities but not including horseback riding, stables, petting zoos, etc.

##### 2) Permitted Accessory Uses

- a) Accessory buildings and uses customarily incidental to the above-named permitted and special use.

#### 13.04 GENERAL PROVISIONS

Continuing Applicability of Information on Approved C-PUD Site Plans - The location of all uses and buildings, all uses and mixtures thereof, all yards and transition strips, and all other information regarding uses of properties as shown on or as part of a site plan which is approved by the Village, shall have the full force and permanence of the Zoning Ordinance as though such site plan and supporting information were specifically set forth as requirements in the Zoning

Ordinance. Such information shall be the continuing obligation of any subsequent interests in a C-PUD district or parts thereof and shall not be changed or altered except as approved through amendment or revision procedures as set forth in this Article. The approved Site Plan(s) and any conditions attached thereto shall control all subsequent planning or development. A parcel of land that has been approved as a C-PUD district shall not be developed or used except in accordance with the approved Site Plan approved by the Village.

1) **Construction** - No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued until the requirements of this Article have been met and approved as to conformance by the Village.

2) **Performance bonds** - will be required for all public and common site improvements and developments and, if phased all phased developments on a per phase basis. Cost estimates to be used in setting bond amounts shall be based upon the findings regarding estimated cost as reported by the Village Engineer.

### **13.05 PRE-APPLICATION CONFERENCE**

1) An applicant for a C-PUD District may request a pre-application conference with Village officials prior to filing an application for developing a C-PUD District. The request shall be made to the Village Planning Commission who shall set a date for the conference. The Village Planning Commission shall invite other officials who might have an interest in the proposed development, or who might assist the Village in the review process.

2) The purpose of the conference shall be to inform Village and other officials of the concept of the proposed development and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the Village and other agencies. The applicant is encouraged to present schematic plans, site data and other information that will explain the proposed development.

3) Statements and presentations made in the conference shall not be legally binding commitments.

### **13.06 SITE PLAN REQUIREMENTS**

A site plan shall be submitted for approval for each phase of development. Preliminary site plans shall be submitted and reviewed in accordance with and shall meet the Site Plan Review provisions of this Ordinance.

The Planning Commission shall require the applicant to provide housing and commercial market analyses, traffic studies, facility, utility and service studies and other information necessary for the Commission to analyze a C-PUD District properly and adequately as the basis for recommendation to the Village Council with respect to this requirement.

To that end, an impact assessment shall be prepared by the applicant and submitted to the Planning Commission concurrently with the Site Plan. This document shall be prepared in narrative form, with such accompanying charts, graphs, maps and/or tables as may prove necessary. Topics to be addressed shall include community impacts i.e., additional traffic likely to be generated per 24-hour period, directional distribution of trips generated by the proposed development, additional police and fire service needs to be anticipated and environmental impacts, i.e., soils found on the site, site topography, natural features of note that are located on the site, and how each would be impacted by the proposed development.

### **13.07 SITE PLAN – ADMINISTRATIVE REVIEW PROCEDURE**

An application for a C-PUD district shall be made by all of the owner(s) of record of the subject parcel. The applicant shall provide evidence of full ownership of all land in a C-PUD or execution of a binding or conditional sales agreement, prior to receiving a recommendation of approval of the application and site plan by the Village Planning Commission.

The application shall be filed with the office of the Zoning Administrator, who will check it for completeness in accordance with this Zoning Ordinance, and who shall transmit the application and the Site Plan to the Village Planning Commission. The application shall be filed, if complete, at least two (2) weeks prior to the Planning Commission meeting with the Zoning Administrator at whom it is to be first considered.

The Village Planning Commission shall hold a public hearing on the application and site plan. At the public hearing, the applicant shall present evidence regarding adherence to all pertinent standards and requirements. To this end evidence and expert opinion shall be submitted by the applicant in the form of maps, charts, graphs, and other means of demonstration to clearly state the full nature and extent of the proposal. Materials shall be submitted in a sufficient number of copies for each member of the Planning Commission and other Village officials. Materials submitted shall include the required site plan and any supplementary sources of information necessary to satisfy the requirements detailed in this ordinance.

The Planning Commission shall study the application and site plan and shall submit a report of its recommendation to the Village Council within sixty (60) days of the filing date of the application. This report shall contain the Planning Commission's analysis of the application and site plan, findings regarding standards, suggested conditions of approval, if applicable, and its recommendations. Materials and information to be considered in this study and review process may include input from such agencies as the County Health Department, Road Commission and Drain Commissioner along with other public agencies having a public interest in the C-PUD project development.

### **13.08 FINAL APPROVAL**

After holding a public hearing and making its recommendations to the Village Council, the Village Council shall review the application and site plan and the Planning Commission's reports thereon, and shall approve, approve with conditions, deny, or table for future consideration, the application and site plan. Changes in the application or site plan recommended by the Village Council shall be referred to the Village Planning Commission for review and recommendation prior to the Village Council action thereon. The Village Council may attach conditions to its approval of a C-PUD proposal.

If the application and site plan are approved by the Village Council, the applicant and all owner(s) of record of all property included within the C-PUD shall sign a statement that the approved application and area plan shall be binding upon the applicant and owner(s) of record or their assigned agent(s) and upon their heirs, successors, and assigns, unless future changes mutually agreed to by any future Village Council and future applicant and owner(s) of record or the assigned agent(s) or their heirs, successors and assigns.

### **13.09 SUPPLEMENTARY DEVELOPMENT STANDARDS AND REGULATIONS**

The following requirements expand upon and are in addition to the requirements detailed in Article 7, "Site Plan Review Procedures." They shall, in all cases, be adhered to by developments in a C-PUD district.

1) **Clustering**

- a) The clustering of principal and accessory uses shall be permitted provided the overall density of the development in terms of dwelling, building or structural units does not exceed the allowed density of the Zoning District in which the C-PUD is located and that the overall density of dwelling units and lot coverage requirements are met.

2) **District Location and Minimum Size**

- a) All development in this district shall be limited to tracts of land having an area of at least 2.5 acres required for the respective types of C-PUD Districts.
- b) All development in this district shall be restricted to sites having access to a hard surfaced roadway and accepted and maintained by the Village, County Road Commission, or the Michigan Department of Transportation.

3) **External and Internal Circulation and Access**

- a) Access points to a C-PUD development shall be located no less than 80 feet and no more than three hundred thirty (330) feet apart when measured parallel to the adjoining roadway.
- b) Each lot or principal building shall have internal vehicular access from a public or private road.
- c) Each lot or principal building shall have pedestrian access from a public or private sidewalk.
- d) As property is developed as a C-PUD Commercial Planned Unit Development District, a pathway system linking all principal residential, commercial, and industrial units both with on-site amenities (e.g., recreation areas, shopping, places of employment) and (unless it is demonstrated to the Planning Commission that such a system would be inappropriate or unnecessary to the development) with adjoining parcels. The pathway system shall be designed to be appropriate to non-motorized transport modes (e.g., bicycling, walking). The pathway shall be no less than four (4) feet in width, and it shall be constructed of hard surface paved materials suited to walking and to non-motorized vehicular use. Sidewalks along public streets shall be no less than six (6) feet in width and shall be constructed of concrete.
- e) Standards of design and construction for public and private streets within the development may be modified to adequately provide the service required. Right-of-way standards may also be modified, especially where the Site Plan provides for separation of pedestrian and vehicular traffic and adequate off-street parking facilities. The Village Engineer shall approve all public streets as a part of the Site Plan Review procedures.
- f) Public and private streets shall be designed and constructed according to established standards for public streets as established by the Village Engineer except that such

standards may be modified as provided above.

If public streets are to be included in the C-PUD, the applicant(s) shall plan, design, and build the streets to Village design standards and specifications.

4) **Open Space Regulations**

- a) The Village Council may require upon recommendation of the Planning Commission those unique natural amenities located on the C-PUD site, such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unusual wildlife habitats, ponds, streams, and wetlands, shall be preserved as part of an open space system.
- b) Buildings, parking lots, driveways and similar improvements may be permitted in open space areas if related and necessary to the functions of the open space.
- c) Open space areas shall be conveniently located and accessible in relation to the principal uses in the C-PUD.
- d) Open space areas shall have at least minimum design standards, so that they can be usable and maintained for the function intended.

5) **Landscaping and Parking**

- a) The parking and loading requirements set forth in this ordinance, shall apply except that the number of spaces required may be reduced if approved by the Village Council, upon recommendation of the Planning Commission, and included as part of the Site Plan submitted. Such reduction shall be based upon specific and reasonable findings.
- b) A well-maintained buffer strip no less than ten (10) feet in width, shall be required when a free-standing physical structure containing a commercial, office or industrial use is located adjacent to a residential use. The screening strip shall be located between the two uses and shall be landscaped with trees, shrubs, and ground cover, and may include fences, walls, and berms. The buffer strip shall contain a well-maintained opaque fence or wall no less than six (6) feet in height. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles or be closer than thirty (30) feet to any street right-of-way line.

6) **Utilities**

- a) Each structure shall be connected to public water and sanitary sewer systems as a part of the Site Plan.
- b) All C-PUDs shall be required to provide an adequate fire protection system as determined and approved by the Village Fire Department and Village Council after receiving the recommendation of the Fire Marshall. In all cases where an on-site system is proposed, detailed drawings, plans and/or other background materials as well as written approval from the appropriate County or State agencies shall be presented as part of the Site Plan submitted. Use of deed restrictions shall provide for financial participation in maintenance costs by each owner or occupant of the C-PUD served by the system shall ensure maintenance of any and all approved common on-site utility systems.
- c) Each site shall be provided with adequate surface and piped storm drainage. Open drainage courses and storm water retention ponds may be permitted.

- d) Electrical, telephone, and cable television lines shall be placed underground. Surface mounted equipment for underground wires shall be shown on the Site Plan and shall be screened from view.
- e) An illumination plan for all principal buildings, pedestrian walkways, and a system of road lights shall be required of developments in the C-PUD district. Financial support for their maintenance shall be ensured through deed restrictions providing for each owner or occupant's participation in maintenance costs.

7) **Site Design, Layout and Density Criteria**

- a) All density requirements shall be completed on a total gross area basis, less water area, unless the water area with the exception that water areas of less than one-quarter (1/4) acre each may be included as part of the gross land area for computing density.
- b) All principal buildings and all accessory buildings or structures shall be located at least fifty (50) feet from any exterior public road right-of-way line and property line.
- c) The outdoor storage of goods and materials shall be prohibited in the C-PUD District.

8) **Legal Mechanisms to Ensure Facility and Open Space Maintenance**

- a) Legal instruments setting forth the manner of financing permanent maintenance of common areas, utilities and facilities shall be submitted to the Village Attorney for review before the Village Council approves a final site plan.
- b) Where an Association is to be used to maintain common areas, utilities and facilities, the developer shall file a declaration of covenants and restrictions that will govern the Association as a part of the Site Plan submitted. The provisions shall include, but shall not be limited to, the following:
  - 1. The Association shall be established before any building or structure in the C-PUD is sold or occupied.
  - 2. Membership in the Association shall be mandatory for each building unit buyer and for any successive buyer and shall be so specified in the covenants.
  - 3. Restrictions shall be permanent.
  - 4. The Association shall be made responsible for liability.
  - 5. Building unit owners shall pay their prorated share of the costs and this requirement shall be specified in the covenants. Assessments levied by the Association shall become a lien on the individual properties.

9) **Project Phasing**

- a) If the proposed development is to be constructed in phases, a narrative description of the phased process that describes all work to be done in each phase should be submitted to the Planning Commission when the Site Plan is submitted.
- b) A phase shall not be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, parking requirements, adequate utility services, and open spaces and recreation facilities, but that which is needed to make each phase



completely functional and have all the necessary common elements Commercial Planned, designed and built when needed.

### **13.10 STANDARDS FOR REVIEW**

The Planning Commission shall determine and shall provide evidence in its report to the Village Council to the effect that the application, site plan and supplementary informational materials submitted by the applicant meet the following standards:

- 1) The proposed development shall conform to the Village Master Plan or conforms to a land use policy, which, in the Planning Commission's opinion, is a logical and acceptable change or modification in the adopted Village Master Plan.
- 2) The proposed development shall conform to the intent and purpose of the Village Zoning Ordinance and its regulations and standards of a C-PUD District and other Village, County, State and Federal requirements.
- 3) The proposed development shall be adequately served by public utilities, facilities and services such as: streets, sidewalks, pathway systems, road lights, police and fire protection, storm drainage facilities, water and sanitary sewer facilities, illumination, refuse disposal; and that the persons, organizations or agencies responsible for the proposed development shall be able to properly provide or connect to such utilities, facilities and services with the Village or other public agency.
- 4) Common open space, other common properties and facilities, individual properties, and all other elements of a C-PUD which provide open space are so Commercial Planned that they will achieve a unified plan for all of its elements in appropriate locations, which are suitably Commercial Planned, designed and related to each other, the site, and surrounding uses of land.
- 5) The applicant shall have made provision to ensure that public and common utilities, facilities, and services shall be irrevocably committed through recorded deed restrictions for that purpose, including provisions for the financing of the construction, management, operation and maintenance of all public and common utilities, facilities and services included in the approved Site Plan and supporting documentation.
- 6) Traffic to, from, and within the C-PUD shall be safe and convenient to the occupants and users of the project and the surrounding area. In applying this standard, the Planning Commission shall consider, among other things, convenient routes for automotive and pedestrian traffic; relationship of the proposed project to main thoroughfares and road intersections; and the general character and intensity of the existing and potential land use development of the surrounding area.
- 7) The mix of residential and non-residential uses shall be acceptable in terms of their interrelationships, convenience, privacy, compatibility, and similar common welfare measures.
- 8) The Planning Commission shall determine, where applicable, that noise, odor, light, or other external effects which relate to the proposed C-PUD, will not adversely affect adjacent and surrounding area lands, uses and activities.
- 9) The proposed development shall create a minimum disturbance to natural features, landforms, and the environment.
- 10) Streets shall be compatible with the topography, be properly spaced, and be located and

aligned in accordance with the intended function of each road. The C-PUD shall have adequate access to public streets. The plans shall provide for logical extensions of public streets and shall provide suitable road connections to adjacent parcels, where applicable.

11) Pedestrian circulation shall be provided within the C-PUD and shall interconnect all C-PUD use areas where applicable. The pedestrian pathway system shall provide for a logical extension of pedestrian ways outside the C-PUD and to the edges of the C-PUD where applicable, for future connections between the C-PUD and the future development of adjacent properties.

### **13.11 AMENDMENTS TO SITE PLANS**

Preliminary and final site plan may be amended in accordance with the process detailed in "Site Plan Review Procedures."

### **13.12 C-PUD SITE PLANS, SUBDIVISION PLATS AND CONDOMINIUM SUBDIVISIONS**

The Village Council shall have the authority to deny or table an application for approval of a C-PUD Site Plan, if, in its opinion and after a report thereon from the Planning Commission, such C-PUD Site Plan will result in premature development of the area involved, or will result in improper scheduling of various public improvements such as, but not limited to, streets, utilities, and schools, as determined from the Public Works Capital Improvement Program adopted by the Village.

### **13.13 EXTENSION OF TIME LIMITS**

Time limits set forth in "Site Plan Review Procedures" may be extended upon showing a good cause, and by written agreement between the applicant and the Planning Commission.

### **13.14 PERFORMANCE GUARANTEES**

Performance guarantees shall be provided in accordance with "Site Plan Review Procedures."

### **13.15 VIOLATIONS**

Violations shall be dealt with in the manner provided in this ordinance.

## **ARTICLE 14**

### **CONDOMINIUMS**

#### **14.01 INTENT AND PURPOSE**

A condominium is a form of ownership of real property governed by the Michigan Condominium Act, Public Act 59 of 1978, as amended. The entire condominium project is owned in common by the co-owners; the documents creating the condominium give each co-owner defined rights to use of portions of the condominium. A co-owner is granted the exclusive right to use and occupy a "unit." The purpose of this Article is to provide equivalent review procedures for condominium projects with developments which have single ownership of lots, or multi-family rental units. Site condominium projects, and certain conventional condominiums which are the functional equivalent of a condominium, require preliminary review by the Zoning Administrator and Planning Commission followed by final review and approval by the Zoning Administrator under this Article to ensure that condominium projects comply with all applicable laws, ordinances, and regulations, including, without limitation, this Ordinance, and the Michigan Condominium Act, Public Act 59 of 1978, as amended. Condominiums may be approved as provided by this Ordinance for the uses permitted by this Ordinance in the zoning district in which the condominium is located.

Except as otherwise provided by this Ordinance, the following words, and phrases, as well as any other words or phrases used in this Ordinance which are specifically defined in the Condominium Act, shall conform to the meanings given to them in the Condominium Act: "common elements;" "condominium documents;" "condominium unit;" "contractible condominium;" "convertible area;" "expandable condominium;" "general common elements;" and "master deed".

#### **14.02 REVIEW OF PRELIMINARY CONDOMINIUM PROJECT PLANS**

The procedures for Village review of preliminary conventional condominium project plans and preliminary site condominium project plans are identical. Accordingly, the references in this section, and in subsequent sections of this Article to condominium project plan and similar references refer to and include conventional condominium project plans and site condominium project plans.

Prior to final review and approval of a Condominium Project Plan, a preliminary Condominium Project Plan shall be reviewed by the Zoning Administrator and the Planning Commission in accordance with the procedures, standards, and requirements provided by this section.

- 1) Application for review and approval of a Condominium Project Plan shall be initiated by submitting to the Village Clerk.
- 2) A minimum of ten (10) copies of a preliminary Condominium Project Plan that complies with the requirements of this Ordinance.
- 3) An application fee in accordance with the fee schedule established by resolution of the Village Council.
- 4) The Village Clerk shall forward the copies of the preliminary plan to the Zoning

Administrator who shall review the preliminary plan to determine its completeness and to provide any comments to the Planning Commission regarding the Plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six (6) months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Planning Commission on completion of his review together with any comments from the Zoning Administrator.

5) The Planning Commission shall review the preliminary Condominium Project Plan in accordance with the standards and requirements of this Ordinance for Site Plan Review, and in accordance with the following additional standards and requirements:

- a) In its review of a Condominium Project Plan, the Planning Commission shall consult with the Zoning Administrator, Village Attorney, Village Engineer, Building Official, Register of Deeds, Fire Chief, Village Planner or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, and compliance of the proposed project with all requirements of the Condominium Act or other applicable laws, ordinances or regulations.
- b) The building site for each condominium unit shall comply with all applicable provisions of the Village Zoning Ordinance, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side and rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard boundaries of the building site to the closest respective front, side, or rear boundary of the building envelope. Regarding building height, the condominium documents shall expressly provide that no building shall exceed the maximum building height permitted by the applicable zoning district regulations.
- c) If a condominium project is proposed to have streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Village of Baldwin.
- d) The condominium project shall be connected to the Village's water and sanitary sewer facilities.

6) After reviewing the preliminary Condominium Project Plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed condominium project, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant.

7) A condominium project, such as a project including multiple family dwellings, multi-tenant commercial buildings, or manufactured housing communities, shall also be subject to such additional review standards and procedures as are specified for the type of project or use involved. By way of example and not of limitation:

- a) A condominium project including multiple family dwelling buildings shall be subject to special land use approval if such approval is required for a multiple family dwelling development under the terms of the zoning district in which the condominium project would be located. Site plan review and approval shall be required.
  - b) A commercial building which includes spaces intended for individual ownership on a condominium basis shall be subject to special land use approval if such use is subject to special land use approval under the terms of the zoning district in which the condominium project is located. Site plan review and approval shall be required.
  - c) A manufactured housing community proposed to be owned on a condominium basis shall be permitted only in a zoning district that permits a manufactured housing community and shall be subject to the standards and procedures for approval provided in this Ordinance for that zoning district, as well as the standards and procedures of this Article.
  - d) A warehouse or self-serve mini warehouse proposed to be owned on a condominium basis shall be subject to special land use approval if such approval for the use is required under the terms of the zoning district in which the condominium would be located. Site plan review and approval is required.
- 8) A condominium is a form of ownership, not a type of land use. Accordingly, the uses of land within a condominium project shall be limited to those uses which are permitted by right or by special land use approval in the applicable zoning district, or which are approved as a planned unit development.
- 9) A condominium project may be proposed for planned unit development approval, or as an open space development pursuant to Section 506 of the Michigan Zoning Enabling Act, as amended. In either case, the condominium project shall be subject to the procedures for review of a planned unit development or of an open space development as well as the standards and procedures of this Article.

#### **14.03 PLANNING COMMISSION RECOMMENDATIONS**

After reviewing the preliminary Condominium Project Plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed condominium project, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant.

#### **14.04 REVIEW AND APPROVAL OF FINAL PLANS BY PLANNING COMMISSION**

After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Village Clerk a minimum of ten (10) copies of a final Condominium development plan that complies with the requirements of this section and the general provisions of this Ordinance. The Village Clerk shall forward the copies of the final plan to the Zoning Administrator who shall review the final plan to determine its completeness and to provide any comments to the Planning Commission regarding the plan. If the plan is not

complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward his review and any comments it to the Planning Commission.

The final Condominium Project Plan submitted by the applicant shall incorporate all the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan that was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commissions shall be reviewed by the Planning Commission as provided by this Ordinance prior to approval of the plan.

After receiving the Planning Commission's recommendations on the preliminary plan and a final condominium development plan from the applicant, the Planning Commission shall proceed to review and may approve, deny, or approve with conditions, the plan in accordance with the standards provided herein and other applicable procedures, standards and requirements provided by this Ordinance.

As a condition of approval of a final Condominium Project Plan:

- 1) The Planning Commission shall require that the plan be submitted to the Lake County Health Department, Lake County Road Commission, Lake County Drain Commission, Michigan Department of Natural Resources, Michigan Department of Public Health and other appropriate state and county review and enforcement agencies (the "**Agencies**") having direct approval or permitting authority over any aspect of the proposed condominium project. Unless a different time limit for completion of review by the Agencies has been established by law or regulation, the review by the Agencies must be completed within one hundred twenty (120) days after submission of an administratively complete final Condominium Project Plan. If no response is received within the applicable period for review, the approval of the Agency or Agencies shall be presumed.
- 2) The Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Board covering the estimated cost of improvements associated with the condominium project for which approval is sought be deposited with the Village as provided by the Michigan Zoning Enabling Act, Public Act 110 of 2006.
- 3) The Village may impose additional reasonable conditions of approval as provided by the Site Plan Review and any other provisions of this Ordinance, any other Village Ordinance, state law or regulation, or any other applicable law or regulation.

#### **14.05 CONTENTS OF CONDOMINIUM PROJECT PLANS**

A condominium project plan shall include the documents and information required by Section 66 of the Condominium Act and by this Ordinance as determined necessary by the Planning

Commission for review of a preliminary plan or by the Planning Commission for review of a final plan, and shall include the following:

- 1) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
- 2) Storm drainage and a Storm Water Management Plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
- 3) A utility plan showing all water and sewer lines and easements granted to the appropriate municipality for installation, repair, and maintenance of all utilities.
- 4) A narrative describing the overall objectives of the proposed condominium project.
- 5) A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
- 6) A street construction, paving, and maintenance plan for all private streets within the proposed condominium project.

#### **14.06 COMPLIANCE WITH APPROVED FINAL CONDOMINIUM PROJECT PLAN**

No buildings or structures shall be constructed, nor shall any other site improvements or changes be made on the property in connection with a proposed condominium project except in compliance with a final Condominium Project Plan as approved by the Planning Commission, including any conditions of approval.

#### **14.07 COMMENCEMENT OF CONSTRUCTION AND ISSUANCE OF PERMITS**

No construction, grading, tree removal, soil stripping or other site improvements or changes shall be commenced by any person and no building, construction or grading permits shall be issued by the building inspector for a condominium project until:

- 1) A final Condominium Project Plan has been approved by the Planning Commission.
- 2) All conditions to commencement of construction imposed by the Planning Commission have been met.
- 3) All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

#### **14.08 CONVERSION CONDOMINIUM PROJECT**

Before offering any unit for sale, the developer of a conversion condominium project shall notify each existing tenant of any unit in the proposed conversion condominium project of all the following:

- 1) The proposed conversion.
- 2) The right of a prospective purchaser to receive the disclosure documents.

- 3) The right to remain in the unit of residence for 120 days after receipt of notice, or until expiration of the term of the lease, whichever is longer.
- 4) The right to terminate tenancy after receipt of this notice upon 60 days' notice to the developer. The notice shall be physically delivered or sent by first class mail to each unit, addressed to the tenant. A tenancy in a conversion condominium, whether month to month or otherwise, shall not be terminated by the lessor without cause within 120 days after delivery of notice under this subsection, or until expiration of the term of the lease, whichever is longer.
- 5) A tenant who receives notice may terminate his or her tenancy, at any time, if notice of termination of tenancy is given to the developer not less than 60 days before the date of termination.
- 6) If a developer of a conversion condominium project desires to take reservations before delivery of the notice, the developer shall, before taking any reservations, notify each existing tenant of any unit in the proposed conversion condominium of both of the following:
  - a) The tenant's lease is not affected by the taking of reservations for units in the proposed conversion condominium.
  - b) If a conversion condominium project is established, the tenant may obtain from the developer a full statement of the rights and options available to the tenant.

#### **14.09 EXPANDABLE OR CONVERTIBLE CONDOMINIUM PROJECTS**

Approval of a final Condominium Project Plan shall not constitute approval of expandable or convertible portions of a condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Planning Commission in compliance with the procedures, standards, and requirements of this Ordinance.

#### **14.10 REVISIONS OF APPROVED FINAL CONDOMINIUM PROJECT PLAN**

Any proposed changes to an approved final Condominium Project Plan shall be reviewed by the Planning Commission, reviewed, and approved by the Planning Commission as provided by this Ordinance for the original review and approval of preliminary and final plans.

#### **14.11 INCORPORATION OF APPROVED PROVISIONS IN MASTER DEED**

All provisions of a final Condominium Project Plan that are approved by the Planning Commission as provided by this Ordinance shall be incorporated, as approved, in the master deed for the condominium project. A copy of the master deed as filed with the Lake County Register of Deeds for recording shall be provided to the Village within ten days after filing the plan with the County.

#### **14.12 APPROVAL EFFECTIVE FOR ONE YEAR**

Approval of a final Condominium Project Plan by the Planning Commission shall be effective for a period of one (1) year. This one (1) year period may be extended by the Board in its discretion for additional periods as determined appropriate by the Board if the extension is applied for by the applicant within the effective period of the approval.





## **ARTICLE 15**

### **SPECIAL LAND USES**

#### **15.01 EXPLANATION**

To make this ordinance flexible, to meet the needs of changing trends, in development and new technology, certain types of uses are required to secure a permit, to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. These uses either are inherently objectionable or have special characteristics as to make extra regulations and controls advisable, even in the zone to which they are permitted and must be located with discrimination in relation to their surroundings. The Village Council is authorized to approve the establishment of special land uses. Special Land Uses are those uses of land that are not incompatible with the uses allowed in a zoning district but possess characteristics or locational qualities that require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria that shall be met for all Special Land Uses. The village council shall permit special land uses in a zoning district only after review and approval.

#### **15.02 SPECIAL LAND USES, FILING REQUEST**

An Application for Special Land Uses shall be filed with the Village Clerk who shall transmit the same to the Village Council, Planning Commission and Zoning Administrator. Each application shall be accompanied by:

- 1) The payment of a fee in accordance with the schedule of fees adopted by the Village Council to cover the costs of processing the application.
- 2) The application shall include plans and specifications or other data or exploratory material stating the methods by which the applicant will comply with the conditions specified for each grant of a special land use.

Upon receipt of an application for a Special Land Use, the Village Clerk shall publish notice of a public hearing for a Special Land Use in a newspaper that circulates in the Village. In addition, said notice shall be sent to the owners of the property for which approval is being considered and to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet. The notice shall be given not less than five nor more than 15 days before the application will be considered. The notice shall:

- 1) Describe the nature of the Special Land Use request.
- 2) Indicate the property that is subject to the Special Land Use considered.
- 3) State when and where the special land use request will be considered.
- 4) Indicate when and where written comments will be received concerning the request.

The Planning Commission shall hold a public hearing to receive public comment on the request. The Planning Commission, based on its review of the application for a Special Land Use, comments received at the public hearing, and other material submitted in relation to the request,

shall make a recommendation to the village council on the Special Land Use application. Such recommendation shall be in accordance with the criteria for approval and such other standards contained in this Ordinance that relate to the Special Land Use under consideration. The recommendation shall include a statement that sets forth the findings, determinations, and conclusion relative to the Special Land Use under consideration. Said statements shall specify the basis for the decision of the Planning Commission and any conditions imposed.

### **15.03 SPECIAL LAND USES**

The following uses shall be allowed only where the individual zoning district regulations under Special Land Uses specifically list them as a Special Land Use:

1. Bed and Breakfast Operations
2. Childcare Centers
3. Conversion of Single-family Dwellings
4. Educational Services and Institutional Structures and Uses
5. Essential Government Services
6. Gasoline Service Stations and Auto Repair Facilities
7. Multiple Commercial Facilities
8. Private Recreation Facilities
9. Public Service Facilities and Community Service Installations
10. Residential Family or Group Childcare Homes and Adult Foster Care Facilities
11. Self-Storage Facilities
12. Subdivisions
13. Temporary Housing
14. Upper Floor Residential Dwellings

### **15.04 BASIS FOR DETERMINATION**

Prior to the approval of a Special Land Use application, the Planning Commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the Special Land Use under consideration. The Planning Commission shall review the circumstances of the Special Land Use request under consideration in terms of the following general standards and shall approve a Special Land Use only upon finding compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.

The Planning Commission may impose conditions, with the approval of a Special Land Use, which

are necessary to ensure compliance with the standards for approval stated in this section or any other applicable standards contained in this Ordinance. Such conditions shall be considered an intricate part of the Special Land Use and shall be enforced by the Zoning Administrator.

Special land uses may be granted upon finding that:

- 1) The Special Land Use shall be designed, constructed, operated, and maintained in a manner that is harmonious with the character of adjacent property and shall not impair the essential character of the surrounding area.
- 2) The Special Land Use shall not affect adversely the health and safety of workers and shall not be hazardous to adjacent property or the general neighborhood or residents in the area or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, and welfare of any persons.
- 3) The Special Land Use shall not place demands on public services and facilities more than current capacities.
- 4) The standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, are satisfied.
- 5) The proposed use is in general agreement and does not affect adversely the Village's Master Plan for physical development of the village or portion thereof adopted by the Village.

#### **15.05 SURETY**

The Planning Commission may require, as a condition of approval for a Special Land Use, a financial guarantee (surety) acceptable to the Village in the form of a cash deposit, certified check, or irrevocable bank letter of credit to guarantee the construction of improvements required as a condition of approval.

#### **15.06 DESIGN STANDARDS**

All Special Land Uses shall meet the following design standards in addition to the requirements of the zoning district in which they are located:

##### **1) BED AND BREAKFAST OPERATIONS**

A Special Land Use permit for Bed and Breakfast Operations may be issued if the request meets all the following standards:

- a) It states the number of bedrooms.
- b) It states the effect of the proposed operation on the adjoining properties and the surrounding neighborhood.
- c) It states the Potential traffic that will be generated by the proposed bed and breakfast operation.
- d) One parking space must be provided for every bedroom.

## **2) CHILDCARE CENTER**

Special Land Uses for a properly licensed childcare center may be issued if the proposed facility meets the following specific guidelines:

- a) Is located not closer than 1,500 feet to any of the following:
  - 1. A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under Article 6 of the Public Health Code, Act 368 of 1978, being Sections 333.6101 to 333.6523 of the Michigan Compiled Laws.
  - 2. A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the Department of Corrections.
- b) Maintains the property consistent with the visible characteristics of the neighborhood.
- c) Meets regulations, if any, governing signs used by the facility to identify themselves.
- d) Meets regulations, if any, requiring off-street parking accommodations for employees.
- e) The childcare center shall be registered and licensed as required for childcare facility under the Childcare Organizations Act, Act 116 of 1973, as amended.
- f) All structures, facilities, design elements, and operational requirements of the facility shall be provided or complied with, as determined necessary by the Planning Commission.
- g) Based on the established capacity of the facility, a minimum of 150 square feet of outdoor open space per person, with not less than 5,000 square feet of open space area per facility, shall be provided and maintained on the lot. For purposes of this section, "open space area" means the area located within the side or rear yard of the facility, exclusive of any area occupied by other structures, swimming pool, or required parking facilities. The open space area shall be free from sharp gravel, glass, or cinder and shall be well drained. The open space area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height.

## **3) CONVERSION OF SINGLE-FAMILY DWELLINGS**

Conversions of single-family dwellings may be approved by Special Land Use Permit in the R-1 and R-2 districts.

- a) Site development standards:
  - 1. Minimum lot size: five thousand (5,000) square feet per dwelling unit.
  - 2. Minimum floor area: seven hundred fifty (750) square feet per dwelling unit.
  - 3. Each unit shall be provided with at least one (1) off-street parking space.
- b) All signs shall comply this Ordinance.

- c) All off-street parking requirements shall be met.
- d) All off-street parking areas and refuse disposal containers shall be screened from adjacent properties.
- e) All dwellings shall have their own access.

#### **4) EDUCATIONAL SERVICES AND INSTITUTIONAL STRUCTURES AND USES**

In recognition of the many types of institutional, non-residential functions that have been found compatible and harmonious with residential and commercial uses, certain institutional uses specified in this Section may be permitted by Special Land Use Permit in the R-1, R-2, C-1, and C-2 districts.

- a) Permitted Institutional Uses: Institutions such as churches, convents, cemeteries, schools, and senior citizen centers.
- b) Site Development Standards:
  - 1. The proposed site shall be at least one acre (43,560 square feet) in size.
  - 2. The proposed site shall be so located as to have at least one property line on a public thoroughfare. All ingress and egress to the site shall be directly onto said thoroughfare.
  - 3. No building shall be closer than fifty (50) feet to any street right-of-way or property line.
  - 4. No more than fifty (50) percent of the gross site area shall be covered by buildings.
  - 5. All signs and off-street parking shall comply with this Ordinance.

#### **5) ESSENTIAL GOVERNMENT SERVICES**

Essential services located above ground and outside of public rights-of-way will be subject to the following terms and conditions:

- a) The erection or construction of any or all buildings and structures shall be designed and erected to conform harmoniously to the general architecture and plan of such zoning district in which it is to be erected.
- b) All buildings or structures must comply with the use, height, area, building, or structure necessary for public convenience and service, provided that such public building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such zoning district, and the advantage of the proposed location to the utility is not outweighed by the detriment to the locality, and a different suitable location is not readily available.
- c) All buildings or structures shall be screened from view as much as possible using natural materials. Landscaping consisting of shrubs, trees, and plant material is preferred to

walls and fences.

## **6) GASOLINE SERVICE STATIONS AND AUTO REPAIR FACILITIES**

Gasoline Service stations and Auto Repair Facilities will be subject to the following terms and conditions:

- a) Parking of inoperative vehicles and storage areas shall be surrounded by an opaque fence or wall at least six (6) feet in height.
- b) Minimum street frontage of one hundred (100) feet shall be required.
- c) Minimum lot area shall be increased five hundred (500) square feet for each fuel pump unit over four (4) and one thousand (1,000) square feet for each service bay over two (2) and three hundred (300) square feet for each parking space intended for the storage of inoperative vehicles.
- d) All buildings and necessary structures including gasoline pumps shall be set back thirty (30) feet from any non-frontage lot line and thirty (30) feet from the curb or outside edge of an established standard village or state roadway shoulder.
- e) All equipment including hydraulic hoist, pits, and oil lubrication, greasing, and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no permanent outdoor storage of merchandise such as tires, lubricants, and other accessory equipment.
- f) All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- g) There shall be no aboveground tanks for the storage of gasoline.
- h) All signs and off-street parking and loading shall be in conformance with this Ordinance.

## **7) MULTIPLE COMMERCIAL FACILITIES**

Multiple commercial facilities may be approved by Special Land Use Permit in accordance with the following guidelines and requirements.

- a) Parking requirements for each use may be decreased from the individual parking requirements as determined by the planning commission but may not be reduced by more than 50%.
- b) Signage may be allowed as one freestanding sign for each parcel of land and one wall sign for each establishment.
- c) Each individual use must be allowed by right in the zoning district in which the multiple commercial facilities are located.

## **8) PRIVATE RECREATION FACILITIES**

Private Recreation Facilities will be subject to the following terms and conditions:

- a) Private recreational areas are permitted by Special Land Use Permit in the C-2 district.
- b) Minimum lot size shall be one acre (43,560 square feet).
- c) Frontage shall be required on a public thoroughfare.
- d) Minimum frontage shall be one hundred (100) feet.
- e) Children's amusement parks such as miniature golf courses and similar uses shall be completely enclosed on all sides by a wall or fence of not less than four (4) feet in height.

## **9) PUBLIC SERVICE FACILITY AND COMMUNITY SERVICE INSTALLATION**

Public Service Facilities and Community Service Installations will be subject to the following terms and conditions:

- a) Minimum lot size shall be seven thousand five hundred (7,500) square feet.
- b) No building shall be closer than fifty (50) feet to any property or street right-of-way line.
- c) No more than fifty (50) percent of the gross site area shall be covered by buildings.
- d) Community service installations over thirty-five (35) feet in height shall only be allowed in the C-1, C-2, and I-1 zoning districts. Except for municipal elevated water storage towers, and communication towers regulated by the FCC, no community service installation shall be over one hundred (100) feet in height.
- e) Except for municipal elevated water storage towers, and communication towers regulated by the FCC, community service installations shall be set back from property lines a distance equal to the elevation of the tower.
- f) Lot area and width shall not be less than that specified for the district in which the proposed use would be located.
- g) When mechanical equipment is located above ground, it shall be screened from the surrounding view with an opaque fence or wall of not less than six (6) feet in height to protect the public safety and to conserve the value of surrounding property.
- h) All signs and off-street parking shall comply with this Ordinance.
- i) Public facilities and community service installations are permitted by right in all zoning districts.
- j) Except for communication towers regulated by the FCC, Community service installations over thirty-five (35) feet in height shall only be allowed in the C-1, C-2, and 1-1 zoning districts, but in no case shall be over one hundred (100) feet in height.
- k) Except for communication towers regulated by the FCC, Towers of community service installations shall be set back from property lines a distance equal to the elevation of the tower.



## **10) RESIDENTIAL FAMILY OR GROUP CHILDCARE HOMES AND ADULT FOSTER CARE FACILITIES:**

A small group care facility (twelve (12) or less persons) within the bona fide private residence of the operator of the group home may be issued a Special Land Use permit, if the group childcare home meets all the following standards:

- a) Based upon the established capacity of the day-care home, a minimum of 150 square feet of outdoor play area per child shall be provided and maintained on the lot. For purposes of this Section, "outdoor play area" means the area located on the lot behind the established front yard setback that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool or required parking areas. The outdoor play area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor play area shall be completely enclosed by a chain-link or solid fence of at least four feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, of at least five feet.
- b) The day-care home shall be registered and licensed as required for under the Childcare Organizations Act (Act No. 116 of the Public Acts of 1973, as amended).

## **11) SELF STORAGE FACILITIES**

Self-storage facilities are allowed in the C-1 zoning district as special land uses in accordance with the following standards.

- 1) The facility must be located on a corner lot.
- 2) The lot size must be a minimum of 22,500 square feet.
- 3) The facility must contain an office building of at least 720 square feet.
- 4) The facility must have a solid fence of at least 5 feet but not more than 6 feet in height on the two side property lines.
- 5) Driveways must be located no closer than 50 feet to any street intersection.
- 6) All parking and driving surfaces must be paved.

## **12) SUBDIVISIONS**

Subdivisions may be approved by Special Land Use Permit in the R-1 and R-2 districts.

- a) All streets and roads shall meet the design and construction specification of the Village of Baldwin and shall be dedicated as public thoroughfares as defined in this Ordinance.
- b) Minimum lot size shall be seven thousand five hundred (7,500) square feet.
- c) All setback requirements of the R-1 district shall apply.
- d) Irregularly shaped lots with nonparallel side lot lines, lot width will be measured at the

building line.

- e) All signs and off-street parking shall be in conformance with this Ordinance.

### **13) TEMPORARY HOUSING**

- a) Temporary housing for structures for dwelling purposes, including Manufactured homes, may be approved by Special Land Use Permit subject to the following limitations and procedures:
  - 1. Emergency Housing: When a dwelling is destroyed by fire, collapse explosion, acts of God, or acts of a public enemy to the extent that it is no longer safe for human occupancy, as determined by the building inspector, a Temporary Housing Permit shall be issued upon the request of the owner at the time of destruction. Said permit shall be in effect for no more than six (6) months, any extension must be approved by the Village Council who may grant the same for a period of not more than one (1) year.
  - 2. Medical Reasons: A person(s) may make application to the Village Council to occupy a Manufactured Housing as an accessory use to the principal dwelling if a medical condition exists such that the intended occupancy requires continued supervision. A licensed physician, stating the nature of the disorder and specifying the level, shall attest to such medical condition and type of continued care needed by the patient. A Temporary Housing Permit shall be granted if the Village Council finds adequate evidence of the need for supervision. Such permit issued to the party with the medical condition is for the applicant's use only and not transferable to any other owner or occupant. The permit shall expire in one (1) year; an extension of one (1) year may be issued upon review. All temporary dwellings shall be located within two hundred (200) feet of the dwelling occupied by the person providing the continued supervision.
- b) Conditions: A Temporary Housing Permit shall not be granted, for any reason, unless the Council finds evidence that the proposed location of the temporary dwelling will not be detrimental to property in the immediate vicinity, within three hundred (300) feet, and that the proposed water supply and sanitary facilities have been approved by the Lake County Health Department. All applicable dimensional requirements within said district shall apply to temporary dwellings.

### **14) UPPER FLOOR RESIDENTIAL DWELLINGS**

Upper floors of commercial buildings may be used for residential dwelling purposes. Where the upper floor of a commercial building is used for residential purposes and the remainder thereof is used for any nonresidential purposes, the part occupied as a dwelling shall conform to all requirements of the building code. Upper Floor Residential Dwellings are permitted on the upper floors of nonresidential buildings, but shall conform to all lot, yard, and bulk requirements of the principal building.

Each Upper Floor Residential Dwelling shall be provided with an exterior entrance separate from the business and have no less than two onsite parking spaces. Public parking within 300 feet may substitute for the required parking spaces. Each Upper Floor Residential Dwelling shall have a Minimum Dwelling Unit Gross Floor Area as follows:

- |    |           |                 |
|----|-----------|-----------------|
| 1. | Studio    | 480 square feet |
| 2. | 1 bedroom | 600 square feet |
| 3. | 2-bedroom | 750 square feet |
| 4. | 3-bedroom | 900 square feet |

#### **15.07 AMENDMENT TO AN APPROVED SPECIAL LAND USE**

Any person owning or operating land for which a Special Land Use has been approved shall notify the Zoning Administrator of any proposed amendment to the approved Special Land Use, including any conditions attached to the approval of the Special Land Use and site plan. Any proposed change to the conditions that were attached to the approval of the Special Land Use or any proposed change to the Special Land Use itself shall be reviewed by the Planning Commission, which shall determine if the proposed changes constitute a major or minor change.

A major change is defined as a change in the conditions of approval or the Special Land Use which would alter the intensity of the use of the property to call into question compliance with the Special Land Use approval standards herein. Examples of a major change may include but are not limited to a substantial increase in the hours of operation, a substantial expansion of the land area devoted to outdoor activity, a substantial increase in the number of items displayed or stored outdoors, an increase in the intensity of the use which would increase traffic or a change in the conditions of approval which may result in a substantial adverse impact on nearby residents or property. In addition, a major change would also include expanding the land area that was approved for the existing Special Land Use and expanding the building containing the use. Any major change would require a public hearing.

A minor change requested for a Special Land Use may be approved by the Planning Commission without a public hearing. Examples of minor changes include landscaping, reduction of building size, building finishes, interior layout, and location of public utilities. If the requested changes apply only to a component of an approved site plan which is part of an approved Special Land Use, the requirements of the Site Plan Review Article shall apply.

#### **15.08 CESSATION OF USE**

Planning Commission approval of a Special Land Use permit shall be valid regardless of change of ownership of the land receiving the Special Land Use permit, provided that all standards and conditions are complied with by any subsequent landowner. If a use authorized by a Special Land Use permit ceases for a period of three years, the Special Land Use permit shall be voided, and the use shall not be re-established except in accordance with the procedures herein. The cessation of the Special Land Use activity shall be determined by the Zoning Administrator who shall base this determination on the following factors which shall include but are not limited to: the establishment of a different use on the property; removal of any signs pertaining to the Special Land Use; removal, replacement or demolition of the building containing the Special Land Use; personal observation that the use has been vacated and other similar factors which would provide evidence of the cessation of the Special Land Use.

#### **15.09 REVOCATION OF PERMIT**

If a violation of any of the conditions or standards imposed on a Special Land Use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the Special Land Use and the Planning Commission that such violation exists and that the permit may be revoked if the violation is not corrected within 15 days of such notification.

If said violation is not corrected within this 15-day period, the Planning Commission may revoke the permit following a public hearing noticed in accordance with the requirements of this Article. Furthermore, such a violation is hereby declared to be a violation of the Zoning Ordinance, subject to all the remedies and penalties provided for in this Ordinance.

Criteria for revocation. A permit may be revoked for any of the following reasons:

- 1) The permittee willfully violates any Local, State, or Federal statute or regulation, which involves a violation of the conditions of the permit or of the laws or regulations governing the permitted activity; or
- 2) The permittee fails within 60 days to correct a violation or violations;
- 3) A request by the permittee to terminate the permit.

Procedure for revocation.

- 1) When the zoning administrator believes there are valid grounds for revoking a permit, the permittee shall be notified in writing of the proposed revocation by certified or registered mail. This notice shall identify the permit to be revoked, the reason(s) for such revocation, and inform the permittee of the right to object to the proposed revocation. The zoning administrator may amend any notice of revocation at any time.
- 2) Upon receipt of a notice of proposed revocation the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed revocation, and may include supporting documentation.
- 3) A decision on the revocation shall be made by the Planning Commission within 45 days after the end of the objection period. The zoning administrator shall notify the permittee in writing of the Planning Commission's decision and the reasons therefore, together with the information concerning the right to request and the procedures for requesting reconsideration.

## **15.10 CESSATION OF USE**

Planning Commission approval of a Special Land Use permit shall be valid regardless of change of ownership of the land receiving the Special Land Use permit, provided that all standards and conditions are complied with by any subsequent landowner. If a use authorized by a Special Land Use permit ceases for a period of three years, the Special Land Use permit shall be voided, and the use shall not be re-established except in accordance with the procedures herein. The cessation of the Special Land Use activity shall be determined by the Zoning Administrator who shall base this determination on the following factors which shall include but are not limited to: the establishment of a different use on the property; removal of any signs pertaining to the Special Land Use; removal, replacement or demolition of the building

containing the Special Land Use; personal observation that the use has been vacated and other similar factors which would provide evidence of the cessation of the Special Land Use.

#### **15.11 REVOCATION OF PERMIT**

If a violation of any of the conditions or standards imposed on a Special Land Use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the Special Land Use and the Planning Commission that such violation exists and that the permit may be revoked if the violation is not corrected within 15 days of such notification.

If said violation is not corrected within this 15-day period, the Planning Commission may revoke the permit following a public hearing noticed in accordance with the requirements of this Article. Furthermore, such a violation is hereby declared to be a violation of the Zoning Ordinance, subject to all the remedies and penalties provided for in this Ordinance.

Criteria for revocation. A permit may be revoked for any of the following reasons:

- 4) The permittee willfully violates any Local, State, or Federal statute or regulation, which involves a violation of the conditions of the permit or of the laws or regulations governing the permitted activity; or
- 5) The permittee fails within 60 days to correct a violation or violations:
- 6) A request by the permittee to terminate the permit.

Procedure for revocation.

- 3) When the zoning administrator believes there are valid grounds for revoking a permit, the permittee shall be notified in writing of the proposed revocation by certified or registered mail. This notice shall identify the permit to be revoked, the reason(s) for such revocation, and inform the permittee of the right to object to the proposed revocation. The zoning administrator may amend any notice of revocation at any time.
- 4) Upon receipt of a notice of proposed revocation the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed revocation, and may include supporting documentation.
- 3) A decision on the revocation shall be made by the Planning Commission within 45 days after the end of the objection period. The zoning administrator shall notify the permittee in writing of the Planning Commission's decision and the reasons therefore, together with the information concerning the right to request and the procedures for requesting reconsideration.

## ARTICLE 16

### OFF-STREET PARKING AND LOADING

#### 16.01 INTENT

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

1) **Fractional Space** - When units of measurement determining the number of required parking spaces result in a fractional parking space, a fraction of one-half (1/2) or less shall be disregarded and a fraction over one-half (1/2) shall require one (1) parking space.

2) **Requirements for a Use Not Mentioned** - In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned, and which is most like the use not listed shall apply.

3) **Use of Parking Areas** - No commercial repair work, servicing, or selling of any kind shall be conducted in any parking area. Parking space shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons. This requirement may be waived during special events by a "special event permit" granted by the Village of Baldwin.

4) **Signage** - No sign shall be erected in parking areas except that no more than one directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed two (2) square feet in area and shall not project beyond the property line of the premises. Temporary signs may be placed indicating parking lots are full, being maintained, etc.

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

6) **Joint Use of Parking Areas** - The joint use of parking facilities by two or more uses may be granted by the Planning Commission whenever such use is practical and satisfactory to each of the uses to be served, and when all requirements for location, design, and construction are met.

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

## 16.02 PARKING SPACE REQUIREMENTS

The number of required off-street parking spaces shall be provided for the following uses. Where a use is not listed, the Zoning Administrator shall determine the number of spaces required based upon similar listed uses.

Land Uses	Parking Spaces Required*
<b>Single-family residences</b>	2 spaces per unit
<b>Duplex residences</b>	2 spaces per unit
<b>Multiple-family residences</b>	2 spaces per unit
<b>Retirement/elderly apartments</b>	1 space per 3 unit, plus 1.5 spaces for each employee per shift
<b>Hotels, motels, boarding houses, clubs, and lodges with overnight accommodations</b>	1 space per unit/room, plus parking as required for restaurant, retail, and conference convention facilities
<b>Dormitories</b>	1 space per planned resident
<b>Group homes</b>	1 space per staff person, plus 1 space per five residents, plus 1 space per vehicle operated by the facility
<b>Family day care homes</b>	None required other than for single-family residences
<b>Day care centers/adult day care facilities</b>	1 space per staff person, plus 1 pick-up and drop-off space, plus 1 space per 10 children or adults
<b>Nursing homes and convalescent centers</b>	1 space per 4 beds or per 1,000 gross sq. ft., plus 1.5 spaces for each employee per shift
<b>Hospitals</b>	1 space per 4 beds plus 1.5 spaces for each on-duty employee
<b>Junior high schools and elementary schools</b>	2 spaces per teaching station, plus 1.5 spaces for each on-duty employee
<b>High schools</b>	6 spaces per teaching station, plus 1.5 spaces for each on-duty employee
<b>Colleges, universities, business, and trade schools</b>	1 space per 4 seats in classroom, plus 1 space per classroom, plus 1.5 spaces for each on-duty employee
<b>Specialized schools/studios (e.g., dance, gymnastics, martial arts, etc.)</b>	1 space per 200 gross sq. ft.
<b>Home industry/profession</b>	None required other than for single-family residences
<b>Professional offices</b>	1 space per 400 gross sq. ft., minimum of 5 spaces
<b>Medical and dental offices, animal veterinary clinics</b>	1 space per 200 gross sq. ft.
<b>Banks and other services</b>	1 space per 400 gross sq. ft., minimum of 5 spaces
<b>Barber or beauty shops/schools</b>	1 space per 75 gross sq. ft.
<b>Launderettes or self-service laundries</b>	1 space per 4 machines
<b>Libraries, art galleries, museums</b>	1 space per 250 gross sq. ft.
<b>Auditoriums, theaters, stadiums, churches, funeral homes, bingo parlors (fixed seating)</b>	1 space for every 4 seats or 1 space for every 8 ft. of bench or pew
<b>Clubs, lodges, dance halls, bingo</b>	1 space per 80 gross sq. ft.

<b>parlors and other assemblies (without fixed seating)</b>	
<b>Tennis, racquetball, handball, and similar courts and clubs</b>	2 spaces per court, plus 1 space per 40 gross sq. ft. of assembly area
<b>Bowling alleys</b>	5 spaces per lane
<b>Skating rinks</b>	1 space per 150 gross sq. ft.
<b>Drive-in and take-out restaurants (no seating)</b>	1 space per 50 gross sq. ft., minimum of 6 spaces
<b>Full-service restaurants, taverns, and lounges</b>	1 space per 50 gross sq. ft., including customer service area, minimum of 6 spaces
<b>Car washes and other short turn-around auto services (e.g., tire mounting)</b>	1 space for each employee, plus 3 spaces for each service bay
<b>Auto repair garage</b>	1 space per 400 gross sq. ft., minimum of 3 spaces
<b>Motor vehicle or large machinery retail</b>	1 space per 1,000 gross sq. ft. building space, plus 1 space per 1,500 gross sq. ft. outside display/sales lot or 2 spaces for each 3 employees
<b>Manufactured (mobile) home and recreation vehicle retail</b>	1 space per 3,000 gross sq. ft. of lot area
<b>Furniture or large appliance retail</b>	1 space per 1,000 gross sq. ft.
<b>Other retail, commercial</b>	1 space per 400 gross sq. ft., minimum of 3 spaces
<b>Self-service storage facilities</b>	1 space for each employee, plus 1 space for every 300 storage units
<b>Wholesale commercial and warehouse</b>	1 space per 2,000 gross sq. ft.
<b>Industrial</b>	1 space per 1,000 gross sq. ft. or 2 spaces for each 3 employees
<b>Auto wrecking yards</b>	15 spaces for sites up to 10 acres, 25 spaces for sites over 10 acres

\*The Zoning Administrator or Planning Commission may provide further determination of required parking spaces (i.e., based upon spaces/employees rather than spaces/square footage) dependent upon the activity

### 16.03 LOCATIONS OF PARKING AREAS

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

- 1) Uses in C-1, C-2, and 1-1 zoning districts: Parking on the premises or within three hundred (300) feet. Uses in the C-1 zoning district may use public parking to meet parking requirement.
- 2) Public and Quasi-Public Buildings, Places of Assembly, Private Clubs, Associations, and Institutions: Parking on the premises or within three hundred (300) feet.

### 16.04 SITE DEVELOPMENT REQUIREMENTS

- 1) **Design, Construction, and Maintenance** - All off-street parking areas, except for parking space provided for single-family dwelling and duplex lots, shall be designed, constructed, and maintained in accordance with the following standards and requirements:

- a) A minimum area of 162 square feet in a space nine (9) feet by eighteen (18) feet shall



be provided for perpendicular and angle vehicle parking spaces. Parallel parking spaces must be a minimum area of 192 square feet in a space of eight (8) feet by twenty-four (24) feet. Each space shall be reserved for parking purposes exclusive of space requirements for adequate ingress and egress, landscaping, etc.

- b) Parking areas shall be so designed and marked as to provide for orderly and safe movement of vehicles.
- c) Off-street parking spaces shall not be closer than five (5) feet to any building or property line.
- d) All off-street parking areas shall be constructed to prevent erosion and graded to dispose of surface water. No surface water shall be permitted to drain onto adjoining property or public right-of-way unless there is a common engineered drainage system shared with the adjoining property.

2) **Access** - Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided.

- a) For one-way access drives, not less than twelve (12) or more than sixteen (16) feet One-way drives must be marked as being one-way.
- b) For two-way access drives, not less than twenty-four (24) or more than thirty (30) feet in width.
- c) Where a turning radius is necessary, it will be of such an arc as to allow an unobstructed flow of vehicles, and so located as to secure the most appropriate development of the individual property.

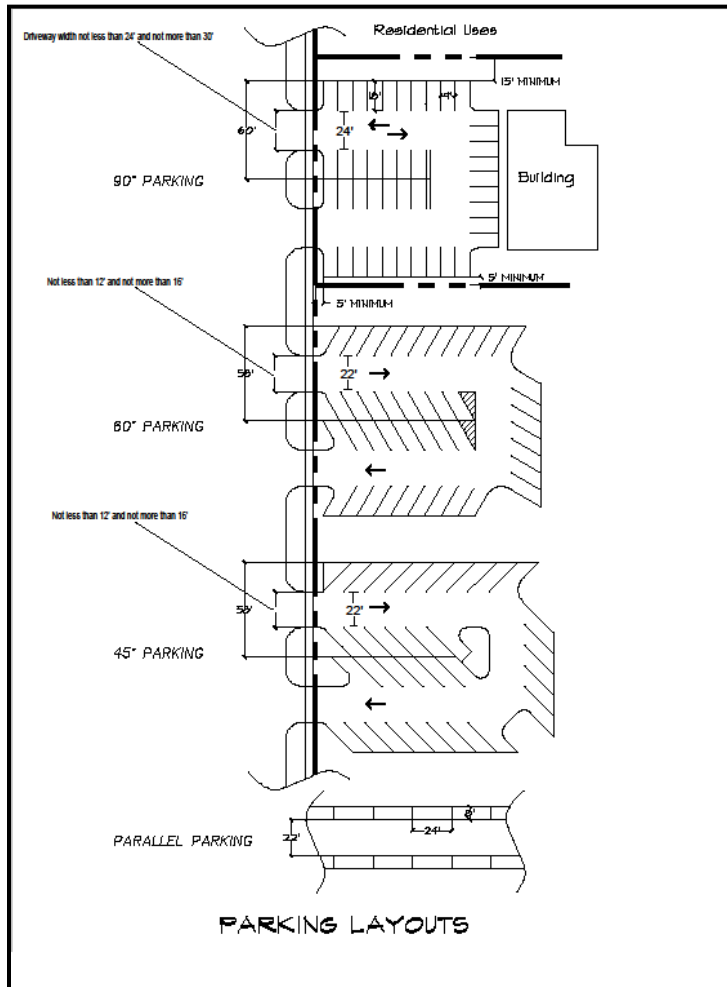
3) **Surface** – All parking areas shall have an asphalt or concrete surface (including permeable concrete) and provide adequate drainage. However, parking areas for public recreation and related uses may use asphalt, concrete, crushed concrete, crushed limestone, or other material at the discretion of the Planning Commission. Parking areas in the C-2 General Commercial zoning district may use asphalt, concrete, permeable concrete, crushed asphalt, or concrete pavers.

4) **Screening Required** - No off-street parking area shall be located closer than fifteen (15) feet to any residentially used or zoned property unless:

- a) A completely enclosed building, or
- b) Screened by a masonry wall or a uniformly painted solid board fence of uniform appearance.
- c) Screened by a compact planting not less than four (4) feet in height.

Where an off-street parking area abuts or is across the street from residentially used or zoned property, it shall have a landscaped setback of 15 feet on any boundary that is adjacent to or across the street from residentially used or zoned property. All such required landscaped setbacks should be suitably protected, developed, and landscaped. Plantings shall be maintained in good condition and not encroach on adjoining property.

5) **Driving Aisles** - Each off-street parking area, shall be served with adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The following standards shall apply:



6) **Lighting** - Adequate lighting shall be provided. Lighting fixtures used to illuminate any off-street parking areas shall be so arranged as to cast the light away from adjacent residentially used or zoned property, and the source of light shall be shielded from view from any adjacent property, road, or street.

7) **Obstructions** - Obstructions in the middle of or adjacent to parking areas shall be removed or protected and clearly marked such that they are not inadvertently struck.

## 16.05 LOADING AND UNLOADING SPACE REQUIREMENTS

1) **Intent** - To prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of

vehicles that will be at the premises at the same time on an average day of full use. (This requirement is waived in the C-1 District.)

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

<b>USE</b>	<b>FLOOR AREA (square feet)</b>	<b>Required Space</b>
Commercial uses, such as retail stores, personal services, amusement, automotive service	First 2,000 .....	None
	Next 20,000 or fraction thereof	One Space
	Each additional 20,000 or fraction thereof .....	One Space
Hotels, Offices	First 2,000	None
	Next 50,000 or fraction thereof	One Space
	Each additional 100,000 or fraction thereof	One Space
Wholesale and storage, including building and contractor's yards,	First 20,000 .....	One Space
	Each additional 20,000 or fraction thereof	One Space
Manufacturing uses	First 20,000 or fraction thereof	One Space
	Each additional 20,000 or fraction thereof	One Space
Funeral Homes and Mortuaries	First 5,000 or fraction thereof	One Space
	Each additional 10,000 or fraction thereof	One Space
Hospitals	First 20,000	One Space
	Next 100,000 or fraction thereof	One Space
	Each additional 200,000 or fraction thereof	One Space
Schools, Churches, Clubs, Public Assembly	For each building .....	One Space
For Similar Uses Not Listed	For each building 5,000 or over	One Space

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

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

## **ARTICLE 17**

### **SIGNS**

#### **17.01 INTENT**

The purpose of these requirements is to provide a framework within which the identification and informational needs of all land uses can be harmonized with the desires and aesthetic standards of the public. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry, and other activities, in attaining their identification and informational objectives. However, it is a basic tenet of this Article that unrestricted signage does not benefit either private enterprise or the community-at-large. Signs should not (by reason of their size, location, construction, or manner of display) endanger life and limb, confuse, or mislead traffic, obstruct vision, impede traffic safety; cause annoyance or disturbance to the citizens and residents of the Village of Baldwin or adversely impair property values. All signs erected or structurally altered shall conform to all codes and ordinances of the Village of Baldwin and shall require approval and a permit.

#### **17.02 APPLICATION REQUIREMENTS FOR ALL SIGNS**

- 1) No person shall erect, relocate, or cause to be erected or relocated any sign or billboard without first obtaining a sign permit. No person shall repair, alter, or cause to be repaired or altered any sign or billboard without obtaining a sign permit.
- 2) Procedure to obtain a permit:
  - a) Application for a sign permit shall be submitted on forms provided by the Zoning Administrator or his/her successor, and shall contain at least the following:
    1. Name, address, and telephone number of the applicant and that of the owner of the premises upon which the sign or billboard is to be erected.
    2. Location of the building, structure, or lot to which or upon which the sign or billboard is to be attached or erected.
    3. Position of the sign or billboard in relation to nearby buildings, structures, signs, or billboards. A scale drawing containing such information shall be submitted.
    4. Two blueprints or ink drawings of the plans and specifications and the method of construction and attachment.
    5. For signs larger than twelve (12) square feet, a copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction of not less than thirty-five (35) pounds per square foot and shall be constructed to receive loads as provided in the State or Local Michigan Residential and Building Codes.
    6. Name of the person, firm, corporation erecting the sign, or billboard.
    7. The written consent of the owner of the structure or land upon which the sign or billboard is to be erected.

- b) Prior to submission of the application to the Zoning Administrator, the application for a sign permit shall be submitted to the electrical inspector if the sign is to be illuminated. The electrical inspector shall examine the plans and specifications respecting all wiring and connections to determine whether the same complies with the Michigan Residential and Building Codes and the customary safe practices followed by the electrical profession. The inspector shall approve said permit if the plans and specifications comply with any such code and practices.
- c) The Zoning Administrator shall, upon the filing of an application for a sign permit, examine the plans, specifications, other data, and the premises upon which it is proposed to erect such sign or billboard. If the proposed structure complies with the requirements of this Ordinance, the provisions of any Michigan Residential and Building Codes and state law, he shall then issue a sign permit. Such permit shall be void if the work authorized under a sign permit has not been completed within 6 months from the date of issuance.
- d) Each applicant shall pay permit fees as established by resolution of the Village Council.
- e) Every sign or billboard erected shall have painted in a conspicuous place thereon in letters not less than 1 inch in height the date of erection, the permit number, and the voltage of any electrical apparatus used in connection therewith.

### **17.03 MEASURING SIGN AREA**

The area of a sign is the entire area within a single continuous perimeter composed of parallelograms, circles, ellipses, trapezoids and triangles, or a combination of two (2) of the above or regular portions thereof per sign panel which encloses the extreme limits of the advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space of a similar nature, together with any frame or other material, color, or condition which forms an integral part of the display and is used to differentiate such sign from the wall or background against which it is placed. Where a sign has two (2) faces, the area of both faces shall be included in determining the area of the sign, except that only one face of a double-faced sign shall be considered in determining the sign area, provided both faces are parallel and the distance between faces does not exceed two (2) feet. Where a sign has three (3) or four (4) faces the area of the sign shall be calculated as fifty percent (50%) of the total area of all faces, provided the interior angle between adjacent faces is ninety (90) degrees or less. Where statuary, is used as a sign, the area of said sign shall be the three (3) vertical sides of the smallest right rectangle enclosing the figures that are most visible from the public right-of-way.

At the discretion of the Zoning Administrator, embellishments such as structural or decorative elements of a sign incorporating representations of the significant architectural features of the associated building or development, and the necessary supports or uprights on which such sign is placed that are not directly adjacent to the sign message itself, may not constitute sign area.

### **17.04 REGULATIONS FOR ALL SIGNS**

The following regulations shall apply to all signs located in districts other than those designated as Residential Districts in the Zoning Code:

- 1) All signs must be constructed of sign industry accepted materials that are long lasting,

durable, and weather resistant.

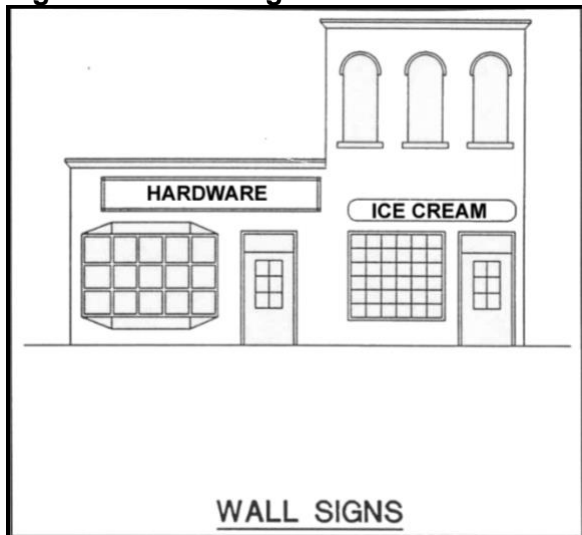
- 2) Signs within the clear vision corner of any intersection must be ground signs less than thirty (30) inches in height or freestanding signs with a minimum of eight (8) feet to the bottom of the sign. Sign supports within clear vision corners must be as narrow as possible while providing sufficient load bearing support.
- 3) Signs shall not be located within public rights-of-way.
- 4) No sign shall extend above or exceed the highest roof line of the principal structure nor be more than 20 feet above the average grade level at the base of the sign. Signs exceeding the height limitations of the zoning district in which they are located may be allowed as Special Land Uses.
- 5) No sign shall be erected or located to prevent free ingress to or egress from any window, door, or fire escape of or upon any building, nor shall any sign be attached to any fire escape.
- 6) Every electrical device and all electric wiring installed for any purpose upon any sign or placed within such sign or constructed on the outside of such sign shall conform to the requirements of the electrical Code and be ULI listed materials. Electrical lighting effects using LED displays or digital programming are allowed.
- 7) No sign shall be so erected or located that, by reason of its location, shape or color, or the color, shape or location of the lights used in conjunction therewith, such sign might interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic signal, traffic sign or traffic marking.
- 8) Every sign erected or located within the Village shall conform to all the applicable provisions of the Zoning Ordinance.
- 9) No lewd, vulgar, indecent, or obscene advertising matter shall be displayed upon any sign.
- 10) Illuminating arrangements for signs shall be such that the external light is concentrated upon such sign and that there is no glare cast upon the street, the sidewalk or adjacent property.
- 11) No sign shall be placed in such a position that it will cause danger to traffic on a street, nor shall a sign of any size or description be placed closer than twenty-five (25) feet from the right of way where streets intersect or in such a position that traffic will be obscured from view.

12) **Wall Signs**

Each nonresidential parcel is allowed either (a) two wall signs, or (b) one wall sign and one freestanding or ground sign. Corner parcels may have one additional wall sign (see figure 17.1).

- a) Wall signs must be attached to the building lying flat against the wall of the building therewith.
- b) Wall signs are allowed in all zoning districts.

**Figure 17.1 Wall Signs**

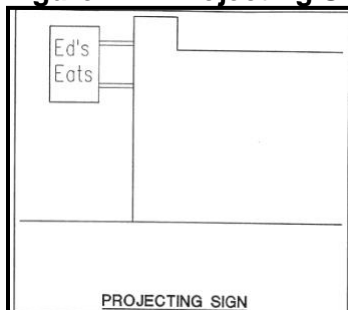


- c) The maximum size for wall signs is one (1) square foot of sign area for each linear foot of building width, except in residential districts where the maximum size is six (6) square feet.

13) **Projecting Signs:** A sign attached to a building or other structure and extending in whole or in part more than fifteen (15) inches from the building (see Figure 17.2).

- a) May be illuminated.
- b) Mounted at ninety-degree (90°) angle and separated from any other projecting sign by not less than twelve (12) feet.
- c) Projecting Signs cannot be placed on a false front extending above the roof line.
- d) Projecting Signs shall only be used for the ground floor businesses.

**Figure 17.2 Projecting Signs**



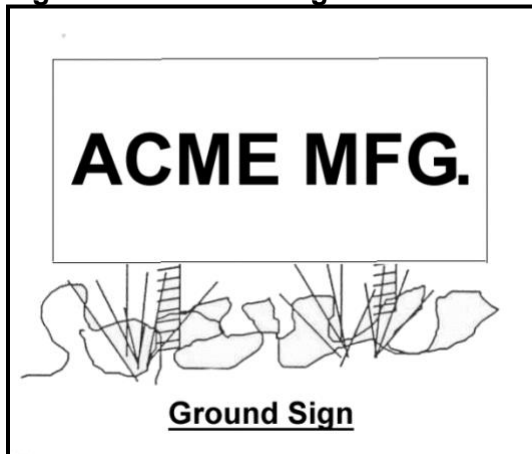
One projecting overhanging sign shall be permitted per business in lieu of either a free-standing or wall sign provided that the sign does not exceed thirty-two (32) square feet in area, is no less than ten (10) feet from the grade at its lowest point and is secured and located to preclude becoming a hazard to the public. Any sign projecting onto public right-of-way must have adequate public liability insurance coverage and proof of such insurance must be provided to the Zoning

Administrator prior to the granting of a permit for such sign. No sign shall project into the public right-of-way more than four (4) feet.

14) **Ground Signs:** (see Figure 17.3)

- a) The total area of the ground sign shall not exceed one hundred (100) square feet.
- b) The highest point of a ground sign shall not exceed six (6) feet above grade level.
- c) Other than the name of the subdivision at the entrance of the subdivision, ground signs are not allowed in residential zoning districts.

**Figure 17.3 Ground Signs**



15) **Free Standing Signs:**

- a) Not obstruct a clear view of traffic.
- b) Not exceed twenty-five (25) feet in height.
- c) Not exceed one (1) per parcel, regardless of the number of businesses located on a parcel.
- d) Be set back at least ten (10) feet from any property line.
- e) Freestanding signs shall be allowed anywhere on the property providing all setback requirements are met and no part of the structure is within ten (10) feet of any building.
- f) The highest portion of a freestanding sign shall not exceed the highest roof line of the principal structure or the height limitation of the zoning district in which it is located, whichever is less.
- g) Freestanding signs are not allowed in residential zoning districts.

**17.05 SIGNS IN RESIDENTIAL DISTRICTS**

Signs in residential districts shall be permitted subject to the following restrictions:



- 1) Signs in residential districts must be non-illuminated signs no larger than nine (9) square feet in area (on each sign face if back-to-back faces).
- 2) Non-illuminated signs advertising new subdivision or major developments may be permitted for not more than one (1) year, provided they do not exceed thirty-two (32) square feet in area (on each sign face if back-to-back faces).
- 3) Institutional uses and public buildings and community service installations permitted in residential districts shall comply with this section, except they shall have a maximum area of thirty-two (32) square feet (on each sign face if back-to-back faces).
- 4) The following signs are allowed in residential districts:
  - a) Sale or lease of property (real or personal).
  - b) Identification of home occupation.
  - c) Political election signs (as provided for elsewhere in this ordinance).

#### **17.06 SIGNS IN COMMERCIAL DISTRICTS**

Signs shall be permitted in commercial zoning districts subject to the following restrictions:

- 1) All signs shall pertain exclusively to the business carried on within the building.
- 2) Signs attached to buildings shall be placed projecting from or flat against the main building.
- 3) Signs may be illuminated either internally or externally, providing the source of illumination is shielded from traffic and adjacent properties.
- 4) Free Standing Signs shall not obstruct a clear view of traffic.
- 5) Directional signs up to three (3) square feet, designating exits, entrances, parking and loading areas, shipping docks, or similar traffic control signs shall be located five (5) feet from all property lines.
- 6) **Wall Signs:**
  - a) Where a principal structure has a marquee or canopy, which is an integral part of the structure, the front line of said marquee or canopy must be at least eight (8) feet above the walk surface in front of the structure.
  - b) Wall Signs shall be flat signs attached and parallel to the face of the building wall or parallel to the building on a canopy or awning and shall be attached only to walls which

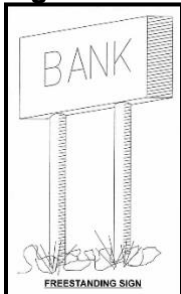
face a public street or may be projecting but not to project beyond fifteen (15) inches from the wall, nor higher than twenty (20) feet from sidewalk grade. Signs shall not project above the building.

- c) In the "C-1" zoning district, wall-mounted signs shall have a maximum total surface area not to exceed five percent (5%) of the area of the face of the wall upon which the sign or signs are attached but not to exceed forty-eight (48) square feet of sign area per wall.
- d) In the "C-2" zoning district, wall-mounted signs shall have a maximum total surface area not to exceed ten percent (10%) of the area of the face of the wall upon which the sign or signs are attached but not to exceed sixty (60) square feet of sign area per wall.
- e) Signs with external illumination shall be permitted providing the source of light is not visible from any street or any adjoining property.

7) **Free Standing Signs:** (see Figure 17.4)

- a) Shall not exceed the height of the principal structure or twenty-five (25) feet.
- b) Not exceed one (1) per parcel, regardless of the number of businesses located on a parcel.
- c) Be set back at least ten (10) feet, when measured from the curb or a line formed by the outside edge of an established standard village or state roadway shoulder, to the leading edge of the sign.
- d) Freestanding signs in the "C-1" Commercial zoning district shall not exceed thirty-two (32) square feet in area (on each sign face if back-to-back faces).
- e) Freestanding signs in the "C-2" Commercial zoning district shall not exceed seventy-five (75) square feet on each of two sides. Freestanding signs having more than two sides shall not exceed one hundred fifty (150) square feet for all sides combined.

**Figure 17.4 Freestanding Sign**



8) **Wall Murals:**

Hand painted wall murals, shall be permitted in the "C-1" and "C-2" Commercial zoning districts, provided that such wall murals:

- a) Shall be painted on the side of an existing building and shall not be permitted on or over the roof of any building.
- b) May be illuminated, provided that the source of illumination is not visible from any

residence in the “R-1” or “R-2” residential zoning districts.

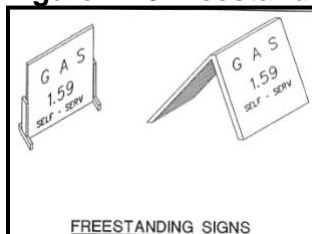
- c) Wall Murals shall be maintained. Such maintenance shall include proper alignment of mural, continued readability of mural and preservation of mural with paint or other surface finishing material. If such mural is not maintained, the Zoning Administrator shall issue written notice of any disrepair to the owner of said structure. If the disrepair is not corrected within thirty (30) days, said structure shall be removed or painted over at the owner's expense.
- d) Shall not exceed eight hundred (800) square feet in surface display area and twenty-five (25) feet in height. Only one surface display area (face) shall be permitted per building.

## 17.07 SIGNS IN INDUSTRIAL DISTRICTS

Signs shall be permitted in the industrial zoning district subject to the following restrictions:

- 1) Signs shall pertain exclusively to the business carried on within the building.
- 2) Signs may be internally illuminated or externally illuminated, but no flashing illumination shall be permitted.
- 3) Directional signs up to three (3) square feet, designating exits, entrances, parking and loading areas, shipping docks, or similar traffic control signs shall be located not less than five (5) feet from any property line.
- 4) Signs may be located anywhere on the premises but no closer than twenty (20) feet from any property line. No sign shall extend more than three feet above the height of the structure or more than twenty-five (25) feet above the average grade level at the base of the sign.
- 5) **Wall Signs:**
  - a) Wall-mounted signs shall be flat signs attached and parallel to the face of the building wall and shall be attached only to walls that face a public street, not higher than twenty (20) feet from sidewalk grade. Where a principal structure has a marquee or canopy, which is an integral part of the structure, the front line of said marquee or canopy shall be at least eight (8) feet above the walk surface in front of the structure.
  - b) Wall Signs attached to buildings shall be placed projecting from or flat against the main building or parallel to the building on a canopy or awning. Signs shall not project above the building.
  - c) Wall Signs painted or affixed to building shall not exceed ten percent (10%) of the total surface area of the building face to which attached.

**Figure 17.6 Freestanding Signs**



- 6) **Free Standing Signs:**
  - a) Shall not exceed twenty-five (25) feet in height.

- b) Shall not exceed seventy-five (75) square feet in area (on each sign face if back-to-back faces).
- c) Freestanding signs having more than two sides shall not exceed one hundred fifty (150) square feet for all sides combined.

#### **17.08 SIGNS NOT TO CONSTITUTE A TRAFFIC HAZARD**

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

#### **17.09 FLAGS USED AS SIGNS**

Flags may be used as signs providing:

- 1) Official flags of federal, state, and local governments without size limitation when displayed in a manner approved by the government represented.
- 2) Flags used as signs shall not exceed twelve (12) square feet.
- 3) Only one flag used as a sign shall be displayed per parcel.

#### **17.10 PORTABLE OR MOVEABLE SIGNS**

Any free-standing sign not permanently anchored or secured to either a building or the ground, including but not limited to "A" frame, "T" frame, or inverted "T" shaped structures, including those signs mounted on wheeled marquee signs, shall be permitted only in nonresidential zoning districts, or in residential zoning districts on parcels occupied by public buildings and community service installations as defined herein, in accordance with the following provisions:

- 1) Portable signs are permitted for a period not to exceed thirty (30) days.
- 2) Portable signs may be illuminated, but no flashing or moving illumination shall be permitted. The source of illumination shall be shielded from traffic and adjacent properties.
- 3) All portable signs shall be set back at least ten (10) feet, measured from the right-of-way line to the leading edge of the sign.
- 4) The sign face of any portable signs shall not exceed thirty-two (32) square feet in surface display area (on each sign face if back-to-back faces),
- 5) Portable signs exceeding the above requirements may be permitted by a "special event permit" granted by the Village of Baldwin.

#### **17.11 SIGN ILLUMINATION**

- 1) Illumination shall be so oriented to the sign that it does not produce glare.
- 2) The source of light must not be visible from adjacent properties or to adjacent rights-of-way.

- 3) Sign lighting must not cast light away from the sign and must be shielded from vehicular traffic.
- 4) No lighting or sign shall be so placed or designed as to be confused with or appear to be a safety device.
- 5) Electronic Message Board (LED) signs must not exceed a nighttime brightness of 375 candelas per meter squared at 4-lux illumination.
- 6) An electronic sign shall not have a rate of change between two static messages or images that exceed more than one change per 6 seconds and each change must be complete in 1 second or less.

### **17.12 OFF-PREMISES SIGNS**

Off-premises signs are permitted in non-residential zoning districts in accordance with the following limitations:

- 1) Off-premises signs shall be located at least ten (10) feet from the right-of-way line of a street and all property lines. Off-premises signs shall not be permitted on or over the roof of any building.
- 2) Off-premises signs may be externally or internally illuminated providing; however, the source of illumination is not visible from any residential zoning district.
- 3) There shall be only one off-premises sign per parcel.
- 4) Off-premises signs shall be limited to twenty-four (24) square feet.

### **17.13 BILLBOARDS**

- 1) Billboards shall not be situated within one thousand three hundred twenty (1,320) feet of another billboard or any other off-premises advertising sign, or within five hundred (500) feet of a residential zoning district or any public park or recreation area, school, church, hospital, retirement home, or cemetery, or on the same parcel as another sign. Billboards shall be at least twenty-five (25) feet from the road right-of-way.
- 2) No billboard shall exceed two hundred (200) square feet in surface display area or twenty-five (25) feet in height. Only one surface display area shall be permitted per billboard.
- 3) Billboards shall not be permitted on or over the roof of any building.
- 4) Billboards are allowed in non-residential zoning districts only.

### **17.14 TEMPORARY SIGNS**

Temporary signs may be allowed in all Districts without permit as provided herein and may be located within the required front setback providing vision for traffic is not impaired (see Figure 17.5).

- 1) **Construction identification sign:** One sign may be allowed per property that identifies the name of the project developers, contractors, engineers, and architects on a site being developed or remodeled. Such signs shall be ground, pole or wall mounted and shall be located not less than 1/2 the required front yard setback and shall be no higher than six (6) feet. Such signs shall

be no larger than sixteen (16) square feet in residential zoning districts, and no larger than thirty-two (32) square feet in all other zoning districts. Construction signs shall be removed upon project completion.

2) **Residential for sale/lease signs:** Residential for sale/lease signs may be allowed which identify the sale/lease of the property upon which the sign is located. Such signs shall be no larger than six (6) square feet, located within the property lines, and shall be no higher than five (5) feet. One (1) such sign may be allowed per lot; except that corner lots may be allowed two (2) signs. For sale/lease, signs shall be removed within seven (7) days of the property sale or lease.

3) **Business for sale/lease signs:** Business for sale/lease signs may be allowed which identify the sale/lease of the property upon which the sign is located. Such signs shall be no larger than sixteen (16) square feet, located within the property lines, and shall be no higher than eight (8) feet. One (1) such sign may be allowed per lot; except that corner lots may be allowed two (2) signs. For sale/lease, signs shall be removed within seven (7) days of the property sale or lease.

4) **Real estate open-house directional signs:** Real estate open-house directional signs are permitted on the day and the preceding day of the open house only. Such signs shall not be larger than six (6) square feet.

**Figure 17.5 Temporary Signs**



5) **Political Election Signs:** Political election signs advocating or opposing a candidate for public office or a position on an issue to be determined at the election are allowed on Election Day, and thirty (30) days prior thereto. Such signs shall not exceed six (6) square feet in size. All election signs must be removed within three (3) days after the election.

6) **Garage and yard sale:** Garage and yard sale identification and directional signs are permitted for up to three (3) consecutive days during a sale and must be removed immediately after the sale. Such signs shall be located on private property with the permission of the property owner and be no larger than six (6) square feet.

7) **Holiday activities or special events:** Temporary signs promoting holiday activities or special events of interest to the entire community are allowed and may be placed up to thirty (30) days prior to the event. Such signs may be portable signs, placed on private property with permission of the owner, shall not exceed thirty-two (32) square feet in size and shall not exceed five (5) feet in height.

8) **Sidewalk Signs:** Sidewalk signs not exceeding three (3) feet in width and three (3) feet in height may be placed on the sidewalk adjacent to and directly in front of businesses in the "C-1" Commercial zoning district. Sidewalk signs shall be displayed during open business hours only and must be removed when the business is closed. Sidewalk signs must not impede pedestrian movement or visibility at intersections or driveways (see Figure 17.6).

### **17.15 EXEMPTED SIGNS**

The signs and devices listed in this Section are exempted from the restrictions and requirements of this Ordinance and may be used without permit or approval when not in violation of any law or safety standard or any other portion of this Ordinance.

- 1) Signs erected by an official governmental body or agency and deemed necessary for the protection of the public health, safety, welfare, and morals.
- 2) Signs not visible from any public way or from any point off the lot on which they are located.
- 3) Holiday decorations and greetings in season.
- 4) Signs required by law to be displayed.
- 5) Signs not exceeding one square foot in area and having thereon no letter or symbol exceeding two inches in any dimension.
- 6) Street numbers and family names on homes, mailboxes and mailbox supports.

### **17.16 PROHIBITED SIGNS**

The signs and devices listed in this section shall not be allowed, erected, or maintained in any zoning district.

- 1) Flashing and intermittently illuminated signs and signs that incorporate in any manner any flashing lights.
- 2) Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment; or is not kept in good repair; or might cause electrical shocks to persons likely to encounter it.
- 3) Any sign, which, by reason of its size, location, content, coloring, or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers or by obstructing or detracting from the visibility of any traffic sign or control device on public streets or roads.
- 4) Any signs that obstruct free ingress to or egress from a required door, window, fire escape, or other required exit way.

- 5) Signs that make use of words such as "STOP," "LOOK," "DANGER," or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
- 6) Any sign or other advertising structure containing any obscene, indecent, or immoral matter.
- 7) Any sign constructed of substandard sign material such as plywood or stick-on letters.
- 8) Wheeled trailer signs on flatbed trailers requiring registration as moving vehicles by the Michigan Department of State are prohibited.
- 9) Any sign unlawfully installed, erected, or maintained.

#### **17.17 SIGN MAINTENANCE**

All signs shall be maintained. Such maintenance shall include proper alignment, continued readability, and preservation of structural components. The sign surface must be maintained with paint or other surface finishing material. All signs located in the Village will be erected, altered, and maintained at the risk of the owner thereof who shall assume full responsibility for consequences or damage caused thereby. Where such signs are deemed to have become unsafe or not properly maintained, the Village shall issue written notice of any disrepair to the owner to correct the situation or have the sign removed. Upon failure to remove or correct such conditions within thirty (30) days after notice, the Building Inspector shall have such sign summarily removed as a public nuisance the cost incurred in removal of same to be borne by the owner of said sign.

#### **17.18 EXISTING LAWFUL NONCONFORMING SIGNS**

It is the intent of this section to permit the continuance of a lawful sign existing at the effective date of adoption of this section, even though such sign may not conform to the provisions of this section. It is the intent that lawful nonconforming signs shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all lawful nonconforming signs within the Village of Baldwin shall be subject to the conditions and requirements set forth herein.

- 1) **Structural Changes:** The faces, supports, or other parts of any lawful nonconforming sign shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign conforms to the provision of this Article for the use it is intended.
- 2) **Repairs, Alterations, and Improvements:** Nothing shall prohibit the repair, reinforcement, alteration, improvement, or modernizing of a lawful nonconforming sign, provided such repair does not exceed an aggregate cost of fifty percent (50%) of the appraised replacement cost as determined by the Assessor of the village, unless the subject sign is changed by such repair, reinforcement, alteration, improvement, or modernizing to a conforming structure. Nothing in this Section shall prohibit the periodic change of message on any sign.
- 3) **Restoration of Damage:** Any lawful nonconforming sign damaged by fire, explosion, or an act of God, or by other accidental causes, may be restored, rebuilt, or repaired, provided that the estimated expense of reconstruction does not exceed sixty percent (60%) of the appraised replacement cost as determined by the Assessor of the village.
- 4) **Discontinuance or Abandonment:** Whenever the activity, business, or usage of a premises to which a lawful nonconforming sign is attached or related had been discontinued for



a period of ninety (90) days or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon the lawful nonconforming sign attached or related thereto. At the end of this period of abandonment, the lawful nonconforming sign shall either be removed or altered at the owner's expense, to conform to the provisions of this Section.

5) **Elimination of Nonconforming Signs**: The Village Council may acquire any lawful nonconforming sign, with or without acquiring the property on which such sign is located, by condemnation or other legal means, and may remove such sign.

## ARTICLE 18

### NONCONFORMING USES OF LAND AND STRUCTURES

#### 18.01 INTENT

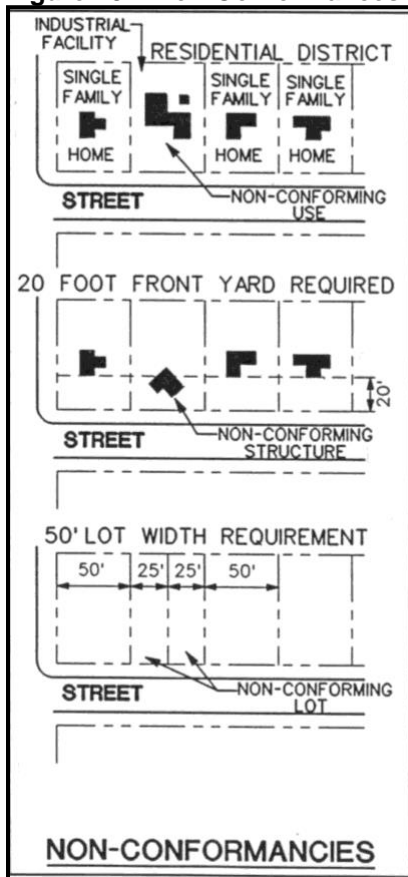
It is the intent of this Article to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival.

It is recognized that there exists within the zoning districts established by this Ordinance and subsequent amendments, lots, structures and uses of land and structures which were previously nonconforming or lawful before this Ordinance was passed or amended, which would be prohibited, regulated, or restricted under the terms of this Ordinance.

#### 18.02 NONCONFORMING LOTS AND PARCELS OF LAND

No use shall be first conducted or changed, and no structure shall be erected or enlarged on any nonconforming lot or parcel of land unless such use or structure meets the dimensional requirements of the zoning district in which it is located.

**Figure 18.1 Non-Conformances**



### **18.03 NONCONFORMING USES OF LAND IN RESIDENTIAL ZONING DISTRICTS**

Nonconforming uses of land may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- 1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- 2) Should such structure containing a nonconforming use be destroyed by any means such as fire, wind, etc., (except for demolition not related to such means), it may be reconstructed to its original size but must meet the building setbacks for the Residential Zoning District in which it is located.
- 3) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, except to make the use more conforming to setbacks.
- 4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, it shall conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.
- 5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

### **18.04 NONCONFORMING USES OF LAND IN COMMERCIAL ZONING DISTRICTS**

Nonconforming uses of land may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- 1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land.
- 2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use.
- 3) Should such structure containing a nonconforming use be destroyed by any means such as fire, wind, etc., (except for industrial uses or demolition not related to such means), it may be reconstructed to its original size but must meet the building setbacks for the R-2 Residential Zoning District.
- 4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, it shall conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.
- 5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

## **18.05 NONCONFORMING USES OF LAND IN INDUSTRIAL ZONING DISTRICTS**

Nonconforming uses of land may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- 1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- 2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- 3) Should such structure containing a nonconforming use be destroyed by any means such as fire, wind, etc., (except for demolition not related to such means), it may be reconstructed to its original size but must meet the building setbacks for the Industrial Zoning District in which it is located.
- 4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, it shall conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.
- 5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

## **18.06 CHANGES IN NONCONFORMING USES**

Any nonconforming use may be changed to another nonconforming use of the same or a more conforming use provided the Zoning Board of Appeals (ZBA) find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose of the structure and/or use in combination so that it shall not be changed to a more nonconforming use.

## **18.07 NONCONFORMING BUILDINGS AND STRUCTURES**

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

- 1) No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located. Furthermore, any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time for adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.
- 2) Should such structure be destroyed by any means to an extent of more than sixty (60)

percent of twice its assessed evaluation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

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

#### **18.08 REPAIR AND MAINTENANCE OF NONCONFORMING BUILDINGS AND STRUCTURES**

Work may be done on any building, devoted in whole or in part to any nonconforming use in any period of twelve (12) consecutive months, for ordinary repairs, or repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the usable square footage of the building is not increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **18.09 CHANGE OF TENANCY OR OWNERSHIP**

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

#### **18.10 ZONING DISTRICT CHANGES**

Whenever the boundaries of a zoning district are changed so that land in one zoning district is changed to a zoning district of another classification, the provisions of this Section shall also apply to any existing uses that become nonconforming because of the boundary change.

#### **18.11 HARDSHIP CASES OF NONCONFORMING STRUCTURES AND BUILDINGS**

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

#### **18.12 ILLEGAL NONCONFORMING USES**

Nonconforming uses of structures or land existing at the effective date of this Ordinance which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

## ARTICLE 19

### ZONING BOARD OF APPEALS

#### 19.01 INTENT

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

#### 19.02 CREATION AND MEMBERSHIP

A Zoning Board of Appeals is hereby established in accordance with Act 207 of the Public Acts of 1921, as amended. The Zoning Board of Appeals shall consist of three (3) members appointed by the Village Council from the electors residing in the Village.

Members shall be appointed for three (3) year terms. Appointments for the first year are to be staggered for a period of one, two and three years, to provide for the appointment of an equal number each year. Members may be reappointed. Members of the Board of Zoning Appeals shall be removable by the Village Council for nonfeasance, malfeasance, and misfeasance of office. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office.

#### 19.03 ORGANIZATION

- 1) **Rules of Procedure:** The Zoning Board of Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Zoning Board of Appeals shall annually elect a chairperson, a vice-chairperson, and a secretary.
- 2) **Meetings and Quorum:** Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals in its Rules of Procedure may specify. A majority of the total membership of the Zoning Board of Appeals shall comprise a quorum. All meetings shall be open to the public.
- 3) **Oaths and Witnesses:** The chairperson may administer oaths and compel the attendance of any witness to insure a fair and proper hearing.
- 4) **Records:** The minutes of all meetings shall contain the grounds for every determination made by the Zoning Board of Appeals including all evidence and data considered, all findings of fact and conclusions drawn by the Zoning Board of Appeals for every case, along with the vote of each member and the final ruling on each case. The Zoning Board of Appeals shall file its minutes in the office of the Village Clerk.

#### 19.04 JURISDICTION

The Zoning Board of Appeals shall act upon questions as they arise in the administration of this Ordinance.

The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in Act 207 of the Public Acts of 1921, as amended. The Zoning Board of Appeals shall not have the

power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance but does have the power to act on those matters for which this Ordinance provides, such as an administrative review, interpretation, granting a variance, or temporary use permit. Within this capacity, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator, Planning Commission, or any official administering or enforcing the provisions of this Ordinance, as set forth herein.

## **19.05 AUTHORIZED APPEALS**

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

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

2) **Interpretation of this Ordinance:** The Zoning Board of Appeals shall hear and decide upon request to:

- a) Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall insure that its interpretation is consistent with the intent and purpose of this Ordinance and the Article in which the language in question is contained.
- b) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
- c) Classify a use, which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
- d) Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in Article 14 or by an analysis of the specific needs.

3) **Variance:** The Zoning Board of Appeals shall have the power to authorize specific variance from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements (pursuant to Section 14.04.2), and sign requirements of this Ordinance, and provisions relating to the use of land, buildings, or structures, so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done, provided that all the required findings listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion:

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

the permit.

- b) Each variance granted under the provisions of this Ordinance shall become null and void unless:
  - 1. The construction authorized by such variance or permit has commenced within six (6) months of granting of the variance.
  - 2. The occupancy of land, premises, or buildings has taken place within one (1) year after the granting of the variance.
- c) No application for a variance which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Zoning Board of Appeals to be valid.

4) **Dimensional Variance (Majority Vote of Zoning Board of Appeals):**

A dimensional or area variance, allows for a use of land in a manner that is not allowed by the dimensional requirements of the zoning ordinance. A dimensional variance is needed when a zoning application does not comply with setback, height, or area requirements. If an applicant wants to build a deck on his house that encroaches slightly into a side yard setback area, the applicant may apply for a dimensional variance.

- a) Dimensional zoning requirements cannot be physically met by an existing lot due to narrowness, shallowness, or irregular shape, or the topography or natural characteristics of the site inhibit the lawful location of a structure or its accessory use.
- b) The physical hardship is unique and is not shared by neighboring properties in the same zoning district. If the Zoning Board of Appeals finds that the hardship is not unique, but common, amending this Ordinance may be pursued.
- c) The practical difficulty was not created by an action of the appellant and either existed at the time of adoption of the requirement from which the variance is requested or is necessary as the result of governmental action such as a road widening.
- d) The appellant presents information showing that a variance:
  - 1. Will not be contrary with the intent and purpose of this Ordinance.
  - 2. Will not cause an adverse effect upon adjacent properties.
  - 3. Will relate only to the property under control of the appellant.
  - 4. Will not alter the character of the surrounding area.
  - 5. Will not increase the hazard from fire, flood, or similar dangers.
  - 6. Will not increase traffic congestion.
- e) The variance is the minimum necessary to permit reasonable use of the land and



buildings.

5) **Use Variance (Two-thirds (2/3) Majority Vote of Zoning Board of Appeals:**

A use variance permits a use of the land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. For example, if a piece of land is zoned for single-family residential use and the owner wishes to operate a retail business, the owner may make application to the zoning board of appeals for a use variance.

- a) The property in question cannot be put to a reasonable use if permitted to be used only under the conditions allowed by the regulations in the zoning district in which it is located.
- b) The unnecessary hardship of the regulation on the property in question is due to very unique circumstances.
- c) The variance, if granted/ would not alter the essential character of the area or neighborhood.
- d) The conditions upon which the petition for a variance is based would not be applicable to other property within the same zoning district.
- e) The purpose of the use variance request is not based merely upon a desire to make more money out of the property.
- f) The alleged hardship has not been created by any person presently having an interest in the property.
- g) The granting of a variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- h) The granting of a variance will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the danger of fire, or endanger the public safety, or diminish or impair property values within the neighborhood.
- i) The use variance is the minimum necessary to permit reasonable use of the land and buildings.

**19.06 APPEAL PROCEDURES**

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

2) **Fee:** A fee as established by the Village Council, shall be paid to the Village Clerk at the time the petitioner files an application with the Zoning Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other

expenses incurred by the Zoning Board of Appeals in connection with the appeal. No fee shall be charged if the Village or any official body of the Village is the moving party.

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

- a) The appellant.
- b) The Zoning Administrator.
- c) All persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet.
- d) The Village President.

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

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

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

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

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

## **19.07 REVIEWS BY CIRCUIT COURT**

Any party aggrieved by an order, determination or decision of any officer, agency, board, and commission. Zoning Board of Appeals or Village Council of the Village of Baldwin which has acted pursuant to the provisions of Act 207 of the Public Acts of 1921, as amended, may obtain a review thereof both on the facts and the law, in the Circuit Court of Lake County; provided that application is made to the Court within thirty days after the delivery of certiorari or by any other method permissible under the rules and practices of the circuit courts of this state; and further provided, that all other means of local appeal and review as provided in this Ordinance have first been exhausted. The Circuit court shall review the record and decision of the Zoning Board of Appeals to ensure that the decision:

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

## ARTICLE 20

### ADMINISTRATION AND ENFORCEMENT

#### 20.01 ADMINISTRATION

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

#### 20.02 DUTIES OF THE ZONING ADMINISTRATOR

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

- 1) Issue Permits: All applications for Zoning Permits shall be submitted to the Zoning Administrator who may issue Zoning Permits when all applicable provisions of this Ordinance have been met.
- 2) File of Applications: The Zoning Administrator shall maintain files of all applications for Zoning Permits and shall keep record of all permits issued; these shall be filed in the office of the Village Clerk and shall be open for public inspection.
- 3) Inspections: The Zoning Administrator (and Enforcement Officer) shall be empowered to make inspections of buildings or premises to carry out the enforcement of this Ordinance. No person shall refuse to permit the Zoning Administrator to inspect any premises, at reasonable times, nor shall any person molest or resist the Zoning Administrator in the discharge of his duties.
- 4) Record of Complaints: Formal complaints shall be immediately forwarded to the Zoning Administrator/Enforcement Officer. The Village Clerk shall keep a record of every identifiable zoning complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public inspection.
- 5) Report to the Village Council: The Zoning Administrator shall report to the Village Council monthly, summarizing for the period since the last previous report, all Zoning Permits issued, and all complaints of violation and any action taken on each complaint. This report can be in person or in writing as required by the Village Council.
- 6) Present Site Plans to the Planning Commission (or Village Council if acting as the Zoning Commission): The Zoning Administrator shall present to the Planning Commission monthly, each Site Plan submitted with an application for a Zoning Permit within the previous forty-five (45) days, along with his preliminary determination of compliance with this Ordinance. The Planning Commission shall make a final determination of compliance and approve the Site Plan or refer the Site Plan back to the Zoning Administrator for further investigation.

Upon approval of the Site Plan by the Planning Commission, the Zoning Administrator will precede with the Zoning Permit application process.

The Planning Commission shall review and approve all Site Plans, except in the case of minor alterations, repair, and demolitions as determined by the Zoning Administrator, and except other categories of Site Plans as determined by the Planning Commission; provided such procedural steps are adopted by resolution and used consistently.

7) Coordination with Building Inspector(s): The Zoning Administrator shall establish procedures with the building inspector(s) with authority in the Village of Baldwin such that no Building Permit shall be granted in the Village of Baldwin unless a village Zoning Permit shall first be granted.

## **20.03 PERMIT PROCEDURES AND REGULATIONS:**

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

2) Jurisdiction: A zoning permit shall be required for the excavation for any building or structure, the erection of, addition to, alteration of, or moving of any building or structure, any land use, moving of any building, demolition of any structure or any existing land use changed to a different type or class, or the use or occupancy of any building or premises, or part thereof. The issuance of the proper and appropriate certificates and permits pursuant to the stipulations of all other laws or ordinances shall be required.

Except upon written order of the Zoning Board of Appeals, no such permit shall be issued for any building or use of land, where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.

3) General Conditions:

- a. Zoning Permits: No building shall be erected, altered, demolished, moved, or repaired until a Zoning Permit has been issued.
- b. Expiration of Permit: Any permit granted under this Section shall become null and void after six (6) months from the date of granting such permit unless the development proposed shall have passed its first building inspection. The permit shall be renewable upon reapplication and upon payment of the original fee, subject to the provisions of all ordinances in effect at the time of renewal.
- c. Revocation: The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance or in the case of any false statement or misrepresentation made in the supplication. The owner or his agent shall be notified of such revocation in writing.
- d. Fees: Fees for inspection and the issuance of permits or certificates required under this Ordinance shall be collected by the Village Clerk in advance of issuance. The amount of such fees shall be established by the Village Council and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.
- e. Issuance: Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue

the appropriate permit. In any case where a permit is refused, the cause(s) shall be stated in writing to the applicant.

- f) Nonconforming Uses: It shall not be necessary for a legal nonconformity, existing on the effective date of this Ordinance to obtain a Zoning Permit to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended pursuant to the "Nonconforming Uses of Land and Structures" article in this ordinance, until a Zoning Permit has been issued by the Zoning Administrator. In such cases, the permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.
  - g) Taxes Paid: Applications for a zoning permit, special land use permit, variance, rezoning, or other permit, including building permits, shall not be issued until the applicant produces satisfactory evidence that any delinquent tax bills, sewer or water charges, assessments, or other municipal charges that are currently outstanding and owed to the village have been paid, unless otherwise authorized by the Village Treasurer.
- 4) Zoning Permit Application and Site Plan Review and Approval: The Zoning Administrator will consider an application for a Zoning Permit when said application contains the following information:
- a) A completed Zoning Permit application form, including any required fees.
  - b) A drawing providing the location and other relevant details of the proposed use and of nearby residences, to establish compliance with all regulations contained in this ordinance.
  - c) In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, either a report from the local Health Department certifying in writing the approval of a private sanitary sewage disposal system, or when public sanitary sewage service is available or required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.
  - d) When a municipal, public, or private water supply system is required by law or proposed by the applicant either a report from the Lake County Health Department, certifying approval of private water supply systems, or when municipal or public water supply is required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.

## **20.04 INSPECTION AND ENFORCEMENT**

- 1) The Zoning Administrator may inspect the site prior to the beginning of construction including the pouring of footings, or excavation for a foundation if deemed necessary.
- 2) The Zoning Administrator shall inspect each alleged violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a Notice of Violation, in writing, which specifies all conditions found to be in violation.
- 3) Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed

personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.

4) All violations shall be corrected within a period of thirty (30) days after the violation notice is issued. Should a violation not be corrected within this time the Zoning Administrator shall notify the owner, or party of interest in writing, of the time and place of a hearing to be held before the Village Council on the conditions causing the notice of violation. At said hearing the person to whom the notice is addressed shall have the opportunity to show cause why said violation should not be ordered to be corrected or why said action would cause an undue hardship.

5) The Village Council shall take testimony of the Zoning Administrator, the owner of the property, and any other interested party or witness. Upon findings of said hearing, the Village Council may extend the time by which the violations must be corrected for a period not to exceed six (6) months. However, the Village Council shall not allow such violations to exist longer than this period.

6) If the owner or party in interest fails to appear, or neglects to correct the violation within the time specified by the Village Council, the Village Council shall prepare a report of their findings for the Village Attorney recommending that the appropriate action be taken. The Village Attorney may then initiate prosecution proceedings.

## **ARTICLE 21**

### **AMENDMENTS**

#### **21.01 INTENT**

The purpose of this Article is for establishing and maintaining sound, stable, and desirable development within the Village of Baldwin; therefore, this Ordinance shall not be amended except to correct an error in the Ordinance; to accommodate changed or changing conditions in a particular area in the Village; to rezone an area; to extend the boundary of a zoning district; or, to change the regulations and restrictions of a zoning district.

#### **21.02 INITIATION OF AMENDMENTS**

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

#### **21.03 FILING FEE**

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

#### **21.04 PROCEDURES**

- 1) Application: A petitioner shall submit a completed and signed "application for Ordinance amendment", along with the appropriate fees, to the Village Clerk. An application shall be submitted for each parcel of land, which is not contiguous to any adjacent parcel of land being proposed for the same amendment.
- 2) Action of Clerk: The Village Clerk shall review the application form to ensure it is complete. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission.
- 3) Notice of Hearing: After transmitting the amendment application to the Planning Commission, the Village Clerk shall establish a date for a public hearing on the application which will be conducted by the Planning Commission within forty-five (45) days of the date of application receipt. The Village Clerk shall give notice of the public hearing in the following manner:
  - a) By one (1) publication in a newspaper of general circulation in the Village of Baldwin, not less than fifteen (15) days before the date of the hearing, and not less than fifteen (15) days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the zoning district affected that registers its name and mailing address with the Village Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
  - b) For any proposed amendment to the Zoning Map, written notice will be delivered by mail, or personally, to all persons to whom any real property within three hundred (300)



feet of the premises in question is assessed, and to the occupants of all dwelling units within three-hundred (300) feet of the premises in question is assessed, and to the occupants of all dwelling units within three-hundred (300) feet of said premises. The notice shall be made at least fifteen (15) days prior to the hearing. Requirements of written notice to property owners shall not apply to comprehensive revision of this Ordinance. Public hearing requirements shall also apply to amendments initiated by the Village Council or the Planning Commission.

## **21.05 APPLICATION INFORMATION**

The applicant shall submit a detailed description of the petition to the Village Clerk. When the petition involves a change in the Zoning Map, the applicant shall submit the following information:

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

## **21.06 PLANNING COMMISSION RECOMMENDATIONS**

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

- a) What, if any, identifiable conditions related to the application have changed which justify the proposed amendment?
- b) What are the precedents and the possible effects of such precedent, which might result from the approval, or denial of the petition?
- c) What is the impact of the amendment on the ability of the Village and other governmental agencies to provide adequate public services and facilities, and/or programs that might be required in the future if the proposed amendment is adopted?
- d) Does the petitioned district change adversely affect environmental conditions, or the value of the surrounding property?
- e) Does the petitioned district change comply with the Village of Baldwin Land Use Plan?

- f) The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.
- 2) Findings of Fact: All findings of fact shall be made a part of the public records of the meetings of the Planning Commission. The Planning Commission shall transmit its findings of fact and a summary of comments received at the public hearing to the Village Council.
- 3) Outside Agency Review: In determining the above-mentioned findings of fact, the Planning Commission may solicit information and testimony from officials of, but not limited to, the following agencies:
- a) Village of Baldwin departments/Baldwin Community Schools
  - b) Lake County Health Department
  - c) Lake County Road Commission
  - d) Lake County Drain Commissioner
  - e) Lake County Sheriff's Department
  - f) Michigan Department of Natural Resources
  - g) Michigan Department of Transportation

## **21.07 CONSIDERATIONS BY VILLAGE COUNCIL**

After receiving the recommendations of the Planning Commission, the Village Council at any regular meeting or at any special meetings called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by ordinance, requiring a majority vote of the full membership of the Village Council. Further it is understood pursuant to Act 207 of the Public Acts of 1921, as amended, that the Council shall not deviate from the recommendation of the Planning Commission without first referring the application back to the Planning Commission, which shall have thirty (30) days from and after such referral in which to make further recommendation to the Village Council, after which the Village Council shall take such action as it determines. If an application is referred to the Planning Commission, the Village Council shall make specific mention of their objections to results of the Planning Commission's findings and recommendations. It is further understood that to lessen the possibility of adverse litigation concerning the zoning district decisions of the Village Council that said Council shall make a complete record of the rationale for the action taken on each application for amendment to this Ordinance.

## **21.08 PUBLICATION OF NOTICE OF ORDINANCE AMENDMENTS**

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

- 1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.

- 2) The effective date of the amendment.
- 3) The place and time where a copy of the amendment may be purchased or inspected.

#### **21.09 RE-SUBMITTAL**

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

#### **21.10 COMPREHENSIVE REVIEW OF ORDINANCE**

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

## **ARTICLE 22**

### **INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL PENALTIES, AND EFFECTIVE DATE**

#### **22.01 INTERPRETATION AND CONFLICTS**

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

#### **22.02 SEVERANCE CLAUSE**

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

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

#### **22.03 VESTED RIGHT**

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

#### **22.04 REPEAL**

All ordinances and amendments thereto enacted and/or adopted by the Village of Baldwin by virtue of Act 207 of the Public Acts of 1921, as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time it was enforced, prosecuted, or inflicted.

#### **22.05 PENALTIES AND REMEDIES**

1) Civil Law: Any building, structure or use constructed, altered, moved, or maintained in violation of the provisions of this Ordinance is hereby declared a nuisance per se.

2) Criminal Law: Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations, conditions, and safeguards established in connection with variances and conditional uses and violations of approved Site Plans shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred (100) dollars or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense.

3) Remedies: The Village Council may institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin, abate, or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

## **22.06 EFFECTIVE DATE**

This Ordinance shall take effect following adoption and upon publication in accordance with the provisions and procedures of Act 207 of the Public Acts of 1921, as amended.

Ordinance adopted: 10/01/2014  
Ordinance notice published: 9/08/2014  
Ordinance effective: 10/01/2014