

ARTICLE 14

GENERAL STANDARDS AND EXCEPTIONS

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Section 14.00 Application.

General requirements and standards apply to all districts except as noted herein. Where requirements of a general regulation and a district regulation differ, the more restrictive requirements shall prevail.

Section 14.02 Use of Buildings and Land.

No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, designed, or arranged, for any purpose other than is permitted in the district in which the building or land is located. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.

Section 14.04 Zoning Permits Issued Prior to Effective Date

A building which is lawfully under construction at the time of adoption of this Ordinance shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

Section 14.06 Restoration of Unsafe Buildings.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of a building or structure declared unsafe by the Zoning Official.

Section 14.08 Moving of Buildings.

- A. Any building or structure that has been wholly or partially erected on any premises located within the Village shall not be moved to and be placed upon any other premises in the Village until a building permit for such move has been secured according to the requirements of this Ordinance. Any such building or structure so moved shall fully conform to this Ordinance in the same manner as a new building or structure.
- B. Before a permit may be issued for moving a building or structure, the Zoning Official shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Building Code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar

character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies, ensuring that utilities are fully discontinued which serve such facilities. Special inspection fees as determined by the Village, may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a building permit shall be issued for the moving of such a building or structure.

Section 14.10 Exceptions to Height Limitations.

A roof structure for the housing of elevators, stairways, tanks, ventilation fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, individual domestic radio and television aerials, telecommunication antennas and their support structures, electrical transmission and communication poles and towers, theater screens, steeples, flagpoles, chimneys, smokestacks, wireless masts, water tanks, grain elevators, silos, gas containers, industrial installation requiring a vertical production procedure such as flour mills, steel mills, and refineries, or similar structures may be erected above the height limits herein prescribed, but no such structures shall be allowed for the purpose of providing additional floor space for residential, business, or industrial use.

Section 14.12 Exceptions to Area and Width Requirements.

A. Recorded Lots.

Lots established by a legally recorded plat or deed prior to the adoption of this Ordinance which have less than the minimum area or width requirements established by this Ordinance, may nevertheless be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this Ordinance and which met the requirements of said Ordinance, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which such lot is located.

B. Lack of Public Utilities.

In areas unserved by public or other approved community water and/or sewage facilities, the minimum lot areas required by this Ordinance shall be increased to include any additional area deemed necessary by the appropriate Health Department to insure safe water supply and/or adequate sewage disposal.

Section 14.14 Number of Buildings on a Lot.

Every building hereinafter erected or structurally altered shall be located on a lot herein defined and there shall be not more than one (1) principal building on one (1) lot unless otherwise provided in this Ordinance. Exceptions to the aforementioned requirement include multiple-family dwellings in a Multiple Family Residential District (R3) or Planned Unit Development (PUD).

No lot may contain more than one (1) principal building, structure, or use excepting groups of multiple-family dwellings, site condominiums as approved under the provisions of this Ordinance, or retail business buildings or other groups of buildings the Zoning Official deems to be a principal use collectively.

Section 14.16 Location of Dwellings.

No residential structure shall be erected upon the rear of a lot. Structures in residential districts shall be setback no further than the average front setback of the structures upon the same block, as determined by the Zoning Official. Appeals of such determination shall be resolved by the Board of Zoning Appeals. No residential structure shall be erected upon a lot with another dwelling unless otherwise provided by this Ordinance.

Section 14.18 Illegal Dwellings.

The use of any portion of the basement of a partially completed building, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. No dwelling unit shall be erected in an industrial district. However, the sleeping quarters of a watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

Section 14.20 Accessory Buildings and Structures.

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

A. General Standards.

1. Accessory buildings, structures, and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.
2. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building, structure, or use may be placed on a lot without a principal building, structure, or use.
3. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
4. All accessory buildings, structures and uses combined shall cover no more than fifty percent (50%) of any rear yard, subject to setback, lot coverage, and other standards of this Ordinance. Accessory buildings shall not be erected in any required front yard. In no instance shall such a building be nearer than five (5) feet to any adjoining lot line or street right of way. In no instance shall an accessory building or structure, excluding garages, exceed four hundred (400) square feet.
5. No detached accessory building shall be located closer than ten (10) feet to any main or principal building.
6. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
7. In the case of an accessory building located in the rear yard on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, such accessory building shall be set back from the street's side at least as far as the required front yard setbacks of the lot at the rear of the subject corner lot.

8. No accessory building may be closer than five (5) feet to any other accessory building.

B. Garages

1. In any residential district, no garage shall be erected closer to the side lot line than the permitted distance for the dwelling, unless the garage is completely to the rear of the dwelling, in which event the garage may be erected five (5) feet from any interior side lot line. No garage or portion thereof, shall extend into the required front yard area. Attached garages of fireproof construction may be erected to extend beyond the front line of the house in those areas which are being developed according to a common plan that includes the construction of attached garages extending beyond the front line of the house, provided that such garages shall not encroach in or upon the minimum front yard required by this Ordinance, and provided further, that the cornice, eaves, or overhang shall not extend more than six (6) inches into the required front or side yard.
2. A garage may occupy not more than fifty percent (50%) of a required rear yard, provided that in no instance where the lot is equal to or less than one (1) acre in area, shall the building exceed seven-hundred-sixty-eight (768) square feet or where the lot is greater than one (1) acre in area, shall the building exceed an area equal to ten percent (10%) of the total lot area. No garage shall be constructed upon or moved to any parcel of property until the principal building thereon, or intended to be placed thereon, is at least two-thirds (2/3) completed.
3. On a corner lot, the entrance to the garage shall not be less than eight (8) feet from the lot line adjacent to the side street, except as otherwise permitted herein.
4. In the case of double frontage lots, accessory buildings including garages shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting in such streets in the same block or adjacent blocks.

C. Swimming Pools

Swimming pools (below ground or above ground), which contain *over* twenty-four (24) inches or more of water depth at any point, shall be enclosed by a solid or impervious fence or enclosure approved by the Zoning Official surrounding the device sufficient to make such device inaccessible to small children. Such fence or enclosure shall include a

locked gate, which shall not be less than four (4) feet above grade or otherwise made inaccessible to small children, from the outside.

Swimming pools shall comply with the side yard requirements established for the zoning district that the property is located in and shall be no closer than ten (10) feet from the rear property line. No such device shall be permitted in any front yard.

D. Mechanical Equipment

Ground-mounted mechanical equipment, such as blowers, ventilating fans, and air conditioning units, shall be placed not closer than three (3) feet to any lot line in any business district, and not closer than six (6) feet in all other districts.

E. Flagpoles

Flagpoles in non-residential districts shall not exceed fifty (50) feet in height and may be illuminated provided the source of illumination is designed, located, and shielded to prevent glare onto adjacent properties, and shall be arranged to prevent adverse affects on motorist visibility on adjacent rights of way. Flagpoles in residential districts shall adhere to the same, except that they may not exceed thirty-five (35) feet in height established in the zoning district where the property is located .

Section 14.22 Accessory Uses and Buildings in Business and Industrial Districts.

In business and industrial districts, accessory buildings and uses may occupy any of the ground area which the principal buildings are permitted to cover. Accessory buildings such as buildings for parking attendant, guard shelters, gate houses, and transformer buildings may be located in any of the yards of the industrial district.

Section 14.24 Attachments to Principal Buildings.

Accessory buildings or structures, including, but not limited to, porches enclosed by walls or garages attached to a dwelling unit or other principal building in a substantial manner, such as by a wall or roof, shall be deemed a part of such principal building for the purpose of determining compliance with the provisions of this chapter concerning required yards.

Section 14.26 Frontage on Streets Required.

No dwelling unit shall be built, located, moved, or converted upon a lot without having the required frontage upon a public street, or upon a private street, or other permanent easement giving access to a public street. No zoning permit shall be issued for any construction located on any lot or parcel of land in the Village that does not abut on a public street, a private street, or other permanent easement giving access to a public street. All access to a public street, a private street, or other permanent easement shall meet the requirements of Article 20 of this Ordinance. This Ordinance shall not be construed as the basis for preventing the issuance of a building permit for ordinary repair or maintenance of any building that is already erected on the date of adoption of this Ordinance upon a lot or parcel of land that does not abut such an access.

Section 14.28 Front Yard Requirements.

Each lot shall have a front yard with a minimum depth measured from, and parallel to, the front right of way line, existing or proposed, whichever is greater, as established in Article 16 Schedule of Regulations".

Section 14.30 Corner Lot, Side Yard Width to the Street Line.

In the case of a corner lot, the side yard width to the side street line shall be equal to the front yard setback requirement for the district in which the lot is located. In no case shall the side yard width to the side street line be less than twenty (20) feet.

Section 14.32 Yards Apply Only to One Building.

No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this Ordinance, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or any lot be considered as providing a yard or open space for another lot whereon a building is to be erected.

No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its

noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this chapter shall comply with the requirements of this chapter.

In any residential district, the front and rear yard requirements of a double frontage lot shall be the same as prescribed for any single family lot in the zone wherein the double frontage lot is located.

Section 14.34 Corner Visibility.

No structure, fence, wall, hedge, planting, tree, or other obstruction to vision in excess of thirty (30) inches in height shall be erected or maintained on that part of the corner residential lot that is included between the lines of intersection of street rights of way and a line intersecting them at points of twenty-five (25) feet distance from the intersection of the street lines. Exception to the thirty (30) inches height requirement within the designated corner area is allowed for trees which provide a minimum clearance of eight (8) feet from the ground to the lowest branch. In the case of driveway/street intersection, the aforementioned technique shall also be used, however a ten (10) foot dimension situated along the driveway and property line shall be utilized. Any decorative fencing which would be approved on a corner shall include only the following fence designs: open weave, split rail or similar fencing.

Section 14.36 Other Projections into Yards.

A. Cornice, Sill, Chimney, or Fireplace.

A cornice, eave belt course, sill , canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than five (5) feet.

B. Open Stairway or Balcony or Fire Escape.

An open, unenclosed stairway, balcony, or fire escape not covered by a roof or canopy may extend or project into a required yard not more than six (6) feet.

C. Porch, Open.

An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than eight (8) feet is exempted from yard requirements provided that the width of a side yard is not reduced to less than five (5) feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

Section 14.38 Access Through Yards.

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Further any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

Section 14.40 Fences or Walls.

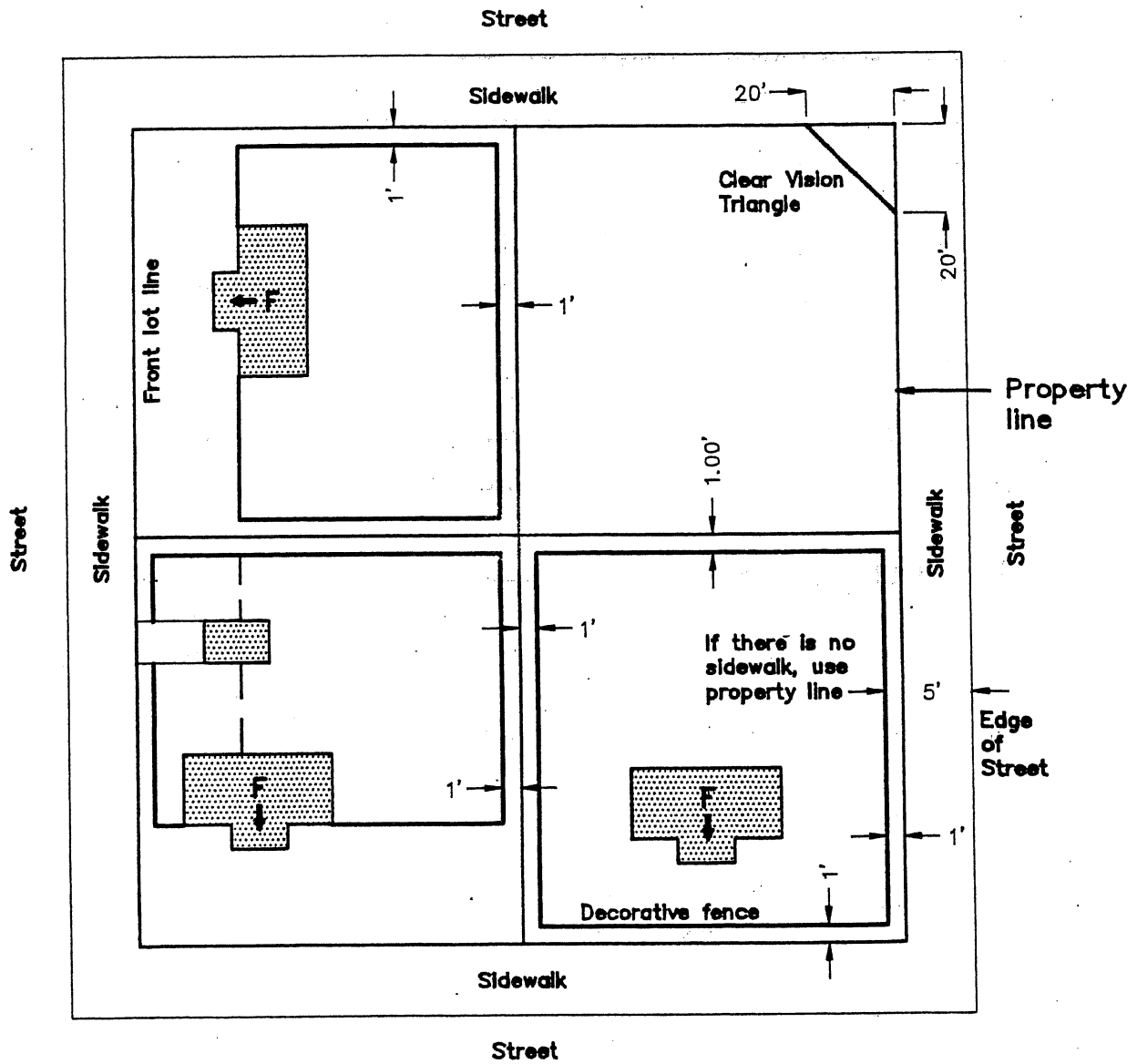
A. Fences or Walls.

Except when in conflict of Section 14.34 (above) or related requirements, fences or walls may be permitted in any yard, or along the edge of any yard. The height of fences or walls shall not exceed six (6) feet in any side or rear yard. A fence in a business or industrial district may be permitted up to eight (8) feet in height along the side or rear yard, providing it does not constitute an obstruction for motor vehicles. A security fence for a permitted use may include a maximum of one (1) additional foot of barbed wire industrial districts only. In all other districts, no fence or wall along the side or front yard, or in front of the side building line of a corner lot shall be over four (4) feet in height, unless provided for otherwise in this Ordinance.

No fence shall be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways. No fence or wall in a front yard on a corner lot, with a triangular section of land formed by the two (2) street right of way line and line connecting them at points twenty-five (25) feet from the intersection of such right of way line, shall exceed thirty (30) inches in height above the curb level.

Fences may be placed up to a lot line. No parts of fences, including foundations, may extend beyond any lot line.

EXAMPLE Fence Setback Illustrations



The finished sides of fences in the rear or side yard shall face away from the property on which they are placed. If a fence exists in the rear or side yard of an adjacent lot, only one (1) other fence maybe placed along the adjoining boundaries of such adjacent lot. Areas between abutting fences must be maintained in accordance with the Village's Code of Ordinances.

No fence, wall, or screen shall be erected within any public right of way, unless approved by the Village Council.

The use of electric current or charge of any fence or part thereof is prohibited, except those buried beneath the ground and/or in the AG-zoned area.

B. Trees, Shrubs, Flowers, or Plants.

Trees, shrubs, flowers, or plants shall be permitted in any front, side, or rear yard, provided it does not violate the corner setbacks as set forth in this Section.

C. Other Specified Structures.

Walls, driveways, curbs, retaining walls, mailboxes, name plates, lamp posts, bird baths, and structures of a like nature shall be permitted in any front, side, or rear yard.

Section 14.42 Rubbish and Waste Material.

It shall be unlawful throughout the Village to openly store, collect, or place discarded building materials, refuse, junk, inoperable and unlicensed motor vehicles, or other similar materials, except upon land owned and operated as a State approved solid waste site.

Section 14.44 Screening.

In order to provide adequate protective screening for residential areas adjacent to or near nonresidential areas, screening shall be provided in accordance with Article 18 of this Ordinance.

Section 14.46 Grading.

All areas surrounding any building or structures shall be graded so as to provide a gradual sloping grade away from the walls of the building or structure.

Section 14.48 Grades.

No premises shall be filled or elevations or grades established so as to discharge the surface runoff on abutting property.

Section 14.50 Protection of Excavations.

The construction, maintenance, or existence within the Village of any unprotected, unbarricaded, open, or dangerous excavations, holes, pits, wells, or of any excavations, holes, or pits which constitute or are reasonably likely to constitute a danger or menace to the public health, safety, or welfare are prohibited. This section shall not be construed so as to prevent any excavation under a permit issued pursuant to this Ordinance or other applicable Ordinance or Code, where such excavation is properly protected and warning signs are posted in such a manner as may be approved by the Zoning Official. Excavation required for swimming pools is excepted from the provisions of this section provided that all necessary permits are obtained and the pool is constructed within thirty (30) days of the excavations. Excavation and site preparation for building foundations is also excepted from the excavation provisions of this section provided that such work is considered incidental to building construction and all necessary permits have been obtained.

Section 14.52 Certificates Required for Excavations; Bonds.

The use of land for the excavation, removal, filling, or depositing in excess of thirty-six (36) inches, of any type of earth material, topsoil, gravel, or rock, or the excavation, removal, filling, or depositing of any garbage, rubbish, or other wastes or byproducts is not permitted in any zoning district, except under a certificate from and under the supervision of the Zoning Official in accordance with a topographic plan, approved by the Village Engineer and/or consultant, submitted by the developer or owner of the property concerned. The topographic plan shall be drawn at a scale of not less than fifty (50) feet equals one (1) inch and shall show existing and proposed grades and topographic features and such other data as may from time to time be required by the Village. Such certificate may be issued in appropriate cases, upon the filing with the application of a cash bond or surety bond by a surety company authorized to do business in the State, running to the Village, in an amount established by the Village, which bond will be sufficient in amount to rehabilitate the property upon default of the operator or such other reasonable expenses. This regulations shall not be construed so as to apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the Zoning Official.

Section 14.54 Voting Places.

This Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal, state, federal, or other public election.

Section 14.56 Automotive Fueling Stations, Service Stations, Repair Centers, and Public Garages.

A. Purpose.

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automotive fueling stations, service stations, repair centers, and public garages, and to regulate and control the adverse effects which these and other problems incidental to automotive fueling stations, service stations, repair centers, and public garages may exercise upon adjacent and surrounding areas, the following regulations and requirements are provided for automotive fueling stations, service stations, repair center, and public garages located in any zoning district. All automotive fueling stations, service stations, repair centers, and public garages erected after the effective date of this Ordinance shall comply with this section. No automotive fueling station, service station, repair center, or public garage existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this Ordinance.

B. Minimum Area and Frontage.

An automotive fueling station, service station, repair center, or public garage shall be located on a lot having a frontage along the principal street of not less than one-hundred-fifty (150) feet and having a minimum area of fifteen-thousand (15,000) square feet.

C. Setbacks.

An automotive fueling station, service station, repair center, or public garage building housing an office and/or facilities for servicing, greasing, and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line and not less than fifteen (15) feet from any side or rear lot line directly adjoining a residential zoning

district. In cases where the side or rear line abuts an open public alley, the structure may be constructed on such property line.

D. Driveway and Curbs.

All driveways providing ingress to or egress from an automotive fueling station, service station, repair center, or public garage shall comply with the standards of this Ordinance, as stated in Article 20 and any other applicable Village, County, or State regulations regarding access or driveways.

E. Paved Areas.

The entire lot, excluding the area occupied by a building shall be hard surfaced with concrete or a plant-mixed bituminous material, except approved landscaped areas.

F. Equipment Location.

All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline and fuel pumps shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right of way.

G. Number of Pumps.

An automotive fueling station, service station, or repair center located on a lot having a minimum area of fifteen-thousand (15,000) square feet, shall include not more than four (4) double gasoline and fuel pumps or eight (8) single gasoline and fuel pumps and two (2) enclosed stalls for servicing, lubricating, greasing, and/or washing motor vehicles. An additional two (2) gasoline and fuel pumps and/or one (1) enclosed stall may be included with the provision of each additional two-thousand (2,000) square feet of lot area.

H. Walls and Screening.

Screening for an automotive fueling station, service station, repair center, or public garage shall be provided in accordance with Article 18.

I. Lighting.

All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all requirements of this Ordinance, as stated in Article 14, Section 14.78, "Performance Standards".

J. Prohibited Locations.

No automotive fueling station, service station, or repair center shall be located nearer than two-hundred (200) feet, as measured from any point on the property line, to any school, playground, church, or hospital, nor shall it be located nearer than four-hundred (400) feet to any municipal well or nearer than two-hundred (200) feet to any permanent standing body of water.

K. Outdoor Storage and Parking.

All repair work shall be conducted completely within an enclosed building. There shall be no storage of vehicle components, parts, trash, supplies, or equipment outside of a building. Outdoor storage or parking of vehicles or trailers, other than private passenger automobiles, shall be prohibited between 10:00 p.m. and 7:00 a.m. of the following day, except that equipment rental operations shall be permitted if incidental to the automotive fueling station, service station, or repair center, and if restricted to travel trailers or campers of under twenty-one (21) feet overall length, car-top carriers, and similar auto accessories. Such operations shall be within fenced enclosures observing the same setbacks required for buildings in the zoning district wherein the automotive fueling station, service station, or repair center is located, and their storage area shall not exceed twenty percent (20%) of the area of the area of the automotive fueling station, service station, or repair center site.

L. Removal of Underground Storage Tanks and Site Remediation.

All underground gasoline storage tanks used in association with an automotive fueling station, service station, repair center, or public garage use shall be installed, maintained, and removed upon stoppage in use shall be in accordance with all pertinent local, County, State, and Federal regulations and standards.

Section 14.58 Essential Public Services.

Essential public services shall be permitted in any zoning district as authorized and regulated by law and other provisions of this Ordinance and the Village's Code of Ordinances, it being the intention hereof to exempt such essential services from the application of this Ordinance.

The Board of Zoning Appeals may permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.

Section 14.60 Signs.

Signs shall be permitted and installed in accordance with Article 19 of this Ordinance.

Section 14.62 Drive-In and Drive-Through Establishments.

A. Purpose

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of drive-in and drive-through establishments, and to regulate and control the adverse effects which these and other problems incidental to drive-in and drive-through establishments may exercise upon adjacent and surrounding areas, the following regulations and requirements are provided for drive-in and drive-through establishments located in any zoning district. All drive-in and drive-through establishments erected after the effective date of this Ordinance shall comply with this Section. No drive-in or drive-through establishment existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this Ordinance.

B. Screening and Landscaping

Screening and landscaping for drive-in and drive-through establishments shall be provided for in accordance with Article 18 of this Ordinance.

C. Lighting

All exterior lighting, including illuminated signs, message boards, or ordering stations shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all other requirements of Article 14, Section 14.78 of this Ordinance.

D. Setbacks

A drive-in or drive-through establishment, including any message boards or ordering stations shall be located not less than fifteen (15) feet from any side or rear lot line directly adjoining a residential zoning district.

E. Driveways and Curbs

All driveways providing ingress to or egress from a drive-in or drive-through establishment shall comply with the standards of this Ordinance, as stated in Article 20. and any other applicable Village, County, or State regulations regarding access or driveways.

F. Paved Areas

The entire lot, excluding the area occupied by a building shall be hard surfaced with concrete or a plant-mixed bituminous material, except approved landscaped areas.

Section 14.64 Tourist Homes (excluding bed and breakfast inns).

Where allowed, either as a permitted or special use, the Planning Commission shall in addition to any standards set forth elsewhere in this Ordinance also review the application and require compliance with the following standards:

A. Application

An initial application to establish or re-establish a tourist home operation shall be made to the Zoning Official for its review and action. The application shall, as a minimum include the following information:

1. A floor plan of the dwelling drawn to a scale of not less than one-eighth (1/8) inch equals one (1) foot and showing the layout of the building. The location of the guest room(s), bathroom(s), and such other information as required herein to facilitate proper review of the application.
2. A site plan of the lot drawn to a scale of not less one-eighth (1/8) inch equals one (1) foot and showing the existing structure and any accessory structures on the site, the location of driveways and vehicular parking areas.

B. Plan Review

The Zoning Official shall review the application and the floor and site plan for compliance with all pertinent standards and conditions.

C. Exits

The tourist facility shall contain at least two (2) usable exits to the outdoors.

D. Minimum Guest Room Size

Rooms utilized for guest sleeping shall have a minimum floor area of one-hundred (100) square feet for two (2) occupants, with an additional thirty (30) square feet provided for each additional occupant up to a maximum of four (4) individuals per room.

E. Cooking Facilities

No separate cooking facilities shall be provided for guests, nor shall any existing cooking facilities be made available for use by the guests.

F. Sanitary Facilities

Adequate lavatories, water closets, and bathing facilities shall be provided to all guests in a tourist home facility.

G. Safety Devices

Each sleeping room shall have a separate smoke alarm and each floor shall be equipped with at least one (1) fire extinguisher.

H. Parking

Off-street parking area shall be provided for the employees and at least one (1) parking space for each sleeping room provided for guests.

I. Signs

One (1) non-illuminated sign, not to exceed three (3) square feet in area, shall be permitted to identify by name the tourist home. Such sign may be attached flat to the surface of the principal dwelling or freestanding provided that it shall not be located within the required front or side yard setback.

J. Guest Register

Each operator shall keep a list of the names of all persons staying at the tourist home operation. Such list shall be available for inspection by Village officials at any time.

K. Length of Stay

The maximum stay for any occupant of a tourist home operation shall be thirty (30) consecutive days and not more than six (6) months in one (1) year.

L. Annual Inspection and Renewal

All tourist home operations shall be subject to annual inspection by the Zoning Official to ensure that the use continues to meet or exceed the standards established herein and/or otherwise by the Planning Commission. Failure to comply with the standards shall result in the revocation of the ability to use said property for the purpose of a tourist home operation.

M. Appeal

An applicant denied renewal of permission to use the property for a tourist home operation may appeal that decision to the Village of Mattawan Zoning Board of Appeals for further review and consideration in accordance with the rules and procedure for hearings appeals as set forth and regulated in this Ordinance. The Board may approve or deny the appeal for reissuance when, in the Board's opinion, good cause is shown after investigation and after opportunity has been given to the applicant to be heard.

In its investigation, the Board shall consider compliance or non-compliance with local, state, and federal standards, ordinances, or regulations in addition to the conduct of the applicant relative to the public and the guidelines set forth in this Ordinance.

Section 14.66 Bed and Breakfast Inns

Where allowed, either as a permitted or special use, the following requirements shall be adhered to:

A. Dwelling Unit and Operator Requirements

Bed and breakfast facilities shall be confined to the single-family dwelling unit which is the principal dwelling unit on the property. The dwelling unit in which the bed and breakfast facility is to be located, shall be the principal residence of the operator, and said operator shall live within said principal residence when bed and breakfast operations are active.

B. Total Area Used for Bed and Breakfast

Not more than fifty percent (50%) of the total existing floor area of the dwelling structure at the time of initial application, shall be devoted to bed and breakfast operations. The method of determining floor area shall be based on the definition of "useable floor area" as defined in this Ordinance.

C. Exits

The bed and breakfast facility shall contain at least two (2) useable exits to the outdoors.

D. Minimum Guest Room Size

Rooms utilized for guest sleeping shall have a minimum floor area of one-hundred (100) square feet for each two (2) occupants, with an additional thirty (30) square feet provided for each additional occupant up to a maximum of five (5) individuals.

E. Cooking Facilities

No separate cooking facilities shall be provided for bed and breakfast guests, nor shall existing cooking facilities be made available for use by the bed and breakfast guests.

F. Sanitary Facilities

Adequate laboratories, water closets, and bathing facilities shall be provided to all guests in a bed and breakfast facility.

G. Safety Devices

Each sleeping room shall have a separate smoke alarm and each floor shall be equipped with at least one (1) fire extinguisher.

H. Appearance

The structure must maintain the appearance of a single family residence.

I. Parking

Off-street parking area shall be provided for the owners, employees and at least one (1) parking space for each sleeping room provided for guests.

J. Signs

One (1) non-illuminated sign, not to exceed three (3) square feet in area, shall be permitted to identify by name the bed and breakfast. Such sign may be attached flat to the surface of the principal dwelling or freestanding provided that it shall not be located within the required front or side yard setback.

K. Length of Stay

The maximum stay for any occupant of a bed and breakfast operation shall be thirty (30) days and not more than six (6) months in one (1) year.

Section 14.68 Storage and Repair of Vehicles in Residential Districts.

The carrying out of repair, restoration, and maintenance procedures on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, shall comply with the standards and requirements identified in the Village of Mattawan Dismantled Car Ordinance as well as the following:

- A. Storage shall occur only on a hard all-weather surface, such as, but not limited to concrete or asphalt.

Section 14.70 Storage and Parking of Commercial and Recreational Vehicles in Residential Districts.

A. Location and Duration

For motor homes, travel trailers, folding-type trailers, pickup campers, snowmobiles on trailers, boats and similar and related type units, and other recreational vehicles as defined by this Ordinance, the regulations of outside storage on all lots zoned and/or used for residential purposes are as follows:

1. A total of three (3) such units may be stored or parked outside on a lot which is zoned and/or used for residential purposes. The ownership of such units shall be in the name of a member of the immediate family of the lot's owner, tenant, or lessee.
2. Such units, when stored outside, shall be located in a rear yard, except as provided in the case of vacant lots. Such units shall be placed or parked on a lot with a principal building, structure, or use unless it is a lot which is attached to an occupied lot under the same ownership. Such units shall not be closer than ten (10) feet from any structure nor five (5) feet from any lot line, unless otherwise provided by this section.

3. The combined area covered by the dwelling, accessory buildings, other above-ground structures and swimming pools, and the area covered by the outside storage of such units, may not exceed forty percent (40%) of the total area of the lot.
4. Recreational vehicles or recreational equipment may be stored, parked, or placed within any front yard or within a public right of way whereon street parking is permitted for a period not exceeding forty-eight (48) hours for loading and unloading or in the process of normal maintenance and cleaning.
5. In the case of corner lots, as defined with two (2) front yards, the regulations of this section shall apply to both front yards. The side yard facing the street will be considered a second front yard.
6. In the case of through lots, parking shall be permitted in the effective rear yard, as determined by the Zoning Official, provided the parked vehicle meets the front and side yard principal building setback requirements of the zoning district.
7. In the case of through lots on a corner (i.e., lots having frontage along three (3) streets), parking shall be allowed only in the side yard. The Zoning Official may permit parking in the effective rear yard, as noted in subparagraph (6) above, upon determination that such parking is allowed in the adjacent lot.
8. Such units or any recreational equipment parked or stored outside may be connected to electricity, water, gas, or sewer/sanitary facilities for living, lodging, or housekeeping purposes and none of the same shall be used for living, lodging, or housekeeping purposes, except for not more than fourteen (14) days within any sixty (60) day period, or as otherwise under the Village's Code of Ordinances.
9. All recreational equipment and vehicles shall be maintained in good condition, shall be operable and shall have a current license and/or registration.

B. Prohibited Items

The parking and/or storage of buses and converted buses in excess of thirty (30) feet in length and boats in excess of thirty (30) feet in length, is prohibited. A suitable covering shall be placed over all boats whenever stored outside.

C. Storage on Vacant Lots

Not more than one (1) recreational unit, motor home, travel trailer, pickup camper, folding-type trailer, boat, or similar and related type unit, and other recreational vehicles as defined by this Ordinance, may be parked or stored on a vacant residentially zoned lot, except as otherwise authorized by this Ordinance. When stored on a vacant lot, such unit shall be located only on the rear half of such lot.

D. Camper Tops

Detachable camper tops shall not be stored in any residential district except in accordance with this section. Further, camper tops that are not installed on a licensed and operable vehicle which are being stored outside, must be placed on the ground and stabilized.

E. Handicapped Vehicles/Equipment

A recreational vehicle and/or recreational equipment which is officially designated as handicapped in accordance with state law and which is used as the regular means of transportation by or for handicapped person may be parked within the required setback area.

F. Commercial Vehicles

It shall be unlawful for the owner, tenant, or lessee of any lot in any residential zoning district to permit the open storage or outdoor parking of semi-tractor (WB-50 or larger) trucks and/or semi-trailers, bulldozers, earth carriers, cranes, or any other similar equipment or machinery, unless parked thereon while in use for approved construction on such lot, or as otherwise provided for in this Ordinance.

Section 14.72 Temporary Buildings, Structures, and Uses for Construction or Special Events.

Temporary principal or accessory buildings, structures, and uses may be permitted, subject to the following conditions:

- A. A temporary permit may be issued by the Village of Mattawan Planning Commission for a mobile home or other temporary structure to be occupied for a period of up to six (6) months while construction of a permanent, permitted structure is constructed.

- B. Extention of the temporary permit: An approved temporary permit may be extended by the Village of Mattawan Planning Commission for an additional six (6) months within the final month of the original temporary permit's timeframe. Such an extension of the original temporary permit can be granted, upon review of appropriate compliance to relevant zoning ordinance codes, by the Village Planning Commission for a maximum timeframe of two (2) years. No temporary principal or accessory buildings, structures and use permits will be allowed beyond the maximum timeframe of two (2) years.
- C. Bond requirement for temporary permit: Upon granting a temporary permit, the Village of Mattawan shall require bond or cash of not less than two hundred fifty dollars (\$250.00), which shall be returned in its entirety once the temporary use has been removed from the premises, in accordance with the provisions of the temporary use permit. The bond or cash balance shall remain with the Village of Mattawan if extentions of the original temporary permit is granted, and the bond or cash balance shall be returned to the appropriate permit applicant no later than two years and one month of the original issue of the temporary permit if all appropriate requirements and regulations concerning the mobile home or other temporary structure are fulfilled by the permit applicant.
- D. Removal of the temporary structure: The mobile home or other temporary structure must be removed within sixty (60) days after the expiration of the permit or the bond will be used to remove it.
- E. Carnival, Circuses, Farmers Markets, Flea Markets, and Similar Events.
1. Approval for these types of uses shall be by the Zoning. The Zoning Official shall consider the intensity of the proposed use in relation to the adjacent land uses and sufficiency of parking. The Zoning Official may require site improvements, such as fencing and restrict hours of operation to help ensure compatibility with surrounding land uses.
 2. The applicant shall provide information establishing a reasonable liability insurance coverage is carried, as determined by the Village.
 3. The sketch plan for the event shall include a description of traffic flow and parking management to ensure safe and efficient traffic operations without creating unreasonable congestion on public streets.

4. Farmers markets which are to occur on a regular schedule shall be permitted only in districts zoned commercial or on public land. The Zoning Official may extend the time period for the temporary use permit so that a separate permit is not required for each event within any one (1) calendar year, provided the number of dates and a schedule are established at the time of application.
5. All equipment, materials, goods, poles, wires, signs, and other items associated with the temporary uses shall be removed from the premises within five (5) days of the end of the event. Following the five (5) day period, the Village shall use any escrow funds to clear remaining items, if any from the property.
6. The length of a temporary use or sales event shall not exceed seven (7) days, except that sales of Christmas trees are permitted for up to sixty (60) days.

E. Review and Approval Procedures, Permit Fees, and Required Escrow.

1. The Zoning Official shall review and approve requests for a temporary use or seasonal event. Where appropriate the Zoning Official shall consult with the Fire Department and Police Department. If the request is denied, the Zoning Official shall state the reasons for denial in writing and provide a copy to the applicant.
2. The applicant shall pay a non-refundable permit fee to the Village Treasurer. The fee shall be established and may from time to time be modified, by the Village Council. The fee amount may vary depending upon the type of event.
3. The proprietor of the temporary use or seasonal event may be required to deposit a cash bond or similar type of escrow, in an amount established by the Village Council, prior to the issuance of the permit. The escrow shall be used by the Village to pay the cost of returning the property to its condition prior to commencement of the event or refunded to the proprietor upon compliance with the requirements of this Ordinance and any other applicable ordinances.

Section 14.74 Adult Regulated Uses.

A. Authorization.

In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a deleterious effect upon residential, public office, and commercial areas, and to protect the health, safety, and welfare of the citizens of the Village of Mattawan. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, and to protect the societal interests in order, morality and discourage deleterious effects and criminal activity, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

B. Site Location Principles.

The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such a use upon the district in which it is proposed, and regulate against the concentration of such uses and their proximity to other uses considered susceptible to the negative impacts of such uses:

1. No such use shall be located, operated or maintained within five hundred (500) feet of:
 - a. a church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;
 - b. a public or private educational facility, including but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, junior colleges and universities. School shall include the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - c. family day care homes or group day care homes;
 - d. an entertainment use which has as its principal use children or family entertainment;

- e. a public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball, tennis court, wilderness areas or other similar public land within the Village which is under the control, operation or management of the Village or other unit of government;
 - f. a zoning district boundary of an agricultural or residential district as defined in the Zoning Ordinance.
 - g. a conforming residential use in a non-residential zoning district.
2. The distance limitations above shall be measured in a straight line without regard to intervening structures or objects from the developed area of the site occupied by the adult regulated use to the nearest point of the site occupied by any of the uses so listed in Section 14.74 B.1.
 3. Adult regulated uses shall comply with all sign requirements under the Zoning Ordinance. Where inconsistencies exist between the provisions of this section and the sign requirements in the Zoning Ordinance, the provisions herein shall control.
 4. No advertisement, display of product or entertainment on the premises, signs or other exhibits which depict, describe or relate to "Specified Sexual Activities" and/or "Specified Anatomical Areas" shall be displayed in window areas or other area where the same can be viewed by pedestrians and motorists on any street, sidewalk or other public place.
 5. No person shall reside in, or permit any person to reside in, the premises of an adult regulated use.
 6. No person operating an adult regulated use shall permit any person under the age of 18 to be on the premises of said business, either as an employee or as a customer.
 7. The building and site, including building openings, entries, exits and windows, shall be designed, constructed, and maintained so that material, entertainment, and/or performances which depict, describe or relate to "Specified Sexual Activities" and/or "Specified anatomical Areas" cannot be observed by pedestrians and motorists on any street, sidewalk or public right-of-way, or from an adjacent land use.
 8. The adult regulated use shall satisfy all landscaping requirements of the Zoning Ordinance.
 9. The adult regulated use shall also demonstrate that the site meets all of the traffic and access management standards of the Village.

10. No touching of employees of Adult Regulated Use by patrons shall occur, no lap dancing or table dancing shall occur, no money shall exchange between patrons and dancers where the patron touches the dancer. All patrons will be at all times at least six (6) feet from all dancers, whether dancing or not.
11. The site plan shall include a diagram that shows all land use zoning districts and any of the uses described in Section 14.74 B.1. above which are located within 1,000 feet of the proposed adult regulated use, as well as meet the informational requirements of Section 14.74 D.8.
12. No building, premises, structure or other facility that contains any adult regulated use shall contain any other adult regulated use.
13. No building, premises, structure or other facility containing any adult use shall be located, operated, or maintained within 1,000 feet of any other adult regulated use building, premises, structure or facility as defined in this section, measured as set forth in subpart 2.
14. Any adult regulated use shall be located in the Historic Central Business District (HCBD).
15. No adult regulated use shall be permitted within a one-thousand (1,000) foot radius of an existing adult only business. Measurement of the one-thousand (1,000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.
16. It is not the purpose of this section to impose a limitation or restriction on the content of any communication material of any adult business protected by the first amendment.

C. Site Development Requirements.

1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs

shall be in conformance with this Ordinance and shall be approved by the Planning Commission prior to their use.

3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area and wherever else it is requested by the Planning Commission.
4. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that sound can be discerned by the public from public or semi-public areas.
5. An adult regulated use shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.

D. Use Regulations.

1. No person shall reside in or permit a person to reside in the premises of an adult regulated use.
2. No person shall operate an adult regulated use unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
3. The owners, operators, or person in charge of an adult regulated use shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.
4. No adult regulated use shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.
5. No person shall operate an adult personal service business without obtaining a zoning permit. Such permit shall be issued by the administrator or the administrator's designee following an inspection to determine compliance with

the relevant ordinances of the Village of Mattawan. Such permit shall be subject to all regulations of federal, state, and local governments.

6. No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult regulated use without the express written permission of the owner of the property for such use.

7. Exempt Uses

The following uses are exempt from the provisions the terms and conditions of this section and are subject to the other provisions of the Zoning Ordinance, and the following uses shall not be construed to be included in any of the definitions of this section:

- a. Accredited hospitals, nursing homes, sanitariums or other licensed health care facilities, physicians, surgeons, chiropractors, osteopaths, physical therapists, registered nurses and other establishments or professionals duly licensed under the laws of the State while engaged in the activities for which they are so licensed;
- b. Barbers, beauticians, barber shops, and beauty parlors licensed under the laws of the State which also offer massages, provided that massages therein involved are limited to the head, shoulders, scalp, neck, hands and feet. Such establishments which also provide activities which fall under the definition of "Adult personal service business" in this section shall, however, be governed by the provisions, terms and conditions of this section;
- c. Public and parochial school and college or professional athletic coaches and trainers while acting within the scope of their school employment; and
- d. Professional Massage Therapists, while engaged in the performance of the duties of their profession, who meet the following criteria:
 1. Proof of graduation from a school of massage licensed by the State of Michigan or another state with equivalent standards, consisting of at least 500 classroom hours of instruction and practical training, which include 300 hours of theory and practice of massage therapy, 100 hours of anatomy and physiology, and 100 hours of elective subjects; or proof of completion of a comprehensive course of study in a massage training program at an American community college or university which requires at a minimum the training and curriculum above; and

2. Proof of current professional membership in the American Massage Therapy Association, International Myomassethics Federation, Associated Bodywork and Massage Professionals, or other national massage therapy organization with comparable prerequisites for certification, including liability insurance and testing.

- e. Nonprofit organizations operating a community center, swimming pool, tennis court, or other educational, cultural, recreational or athletic facilities which are used primarily for the welfare of the residents of the area.

8. Application Procedure and Approval Process

- a. General. Whenever any adult regulated use is proposed, before any building permit is granted, the developer shall apply for and secure approval of the special land use in accordance with the following procedures and obtain approval of a detailed site plan from the Planning Commission.

- b. Application for detailed site plan approval. Application for detailed site plan approval for an adult regulated use shall be made as follows:

1. The detailed site plan shall include the following information:

- a) An area map showing the applicant's entire holding that portion of the applicant's property under consideration and all properties, subdivisions, streets, utilities, and easements within 300 feet of the applicant's property.
- b) A topographic map showing contour intervals of not more than one (1) foot of elevation shall be provided.
- c) A site plan showing location, proposed use, and height of all buildings, location of all parking areas, with access and egress drives thereto; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and proposed development of screened areas; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.
- d) A tracing overlay showing all soil types and their location, and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the

overlay shall also include an outline and description of existing vegetation.

2. Required standards for approval. The Planning Commission's review of the detailed site plan shall include the following:
 - a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, and pedestrian movement.
 - b) Location, arrangement, appearance and sufficiency of off-street parking.
 - c) Location, arrangement, size and entrances of buildings, walkways and lighting.
 - d) Relationship of the various uses to one another.
 - e) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring screen between adjacent uses and adjoining lands.
 - f) Adequacy of water supply, stormwater and sanitary waste disposal facilities.
 - g) Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion.
 - h) Compliance with all regulations of this Section.
- c. Action on the detailed site plan. The Planning Commission shall render its approval or disapproval of the detailed site plan for an adult regulated use and so notify the applicant and the building inspector.
- d. Revocation. In any case where construction on the adult regulated use has not commenced within one year from the date of approval, then the special land use permit shall be null and void.

Section 14.76 Telecommunication Antennas and Antenna Support Structures

To protect the health, safety, and general welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the Village of Mattawan, the following general standards shall be adhered to:

*Village of Mattawan
General Standards and Exceptions
Article 14*

A. Permitted as Principal Uses.

In the following circumstances, a new telecommunications antenna shall be a principal permitted use, or a permitted accessory use, subject to site plan approval as provided in this Article, and also subject to the conditions set forth in subparagraph (D) below:

1. Attached telecommunication antennas within all districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed;
2. Colocation of an attached telecommunication antenna which has been previously approved for colocation by the Planning Commission;
3. Telecommunication antennas attached to a utility pole located within a right-of-way, where the existing pole is not modified to materially alter the structure and/or result in an impairment of sight lines or other safety interests.

B. Permitted as Special Land Uses.

Telecommunication antennas with monopole or lattice tower support structures, shall be permitted as special land uses only in the Limited Industrial District (LID), subject to the standards and requirements of Article 21, except that they shall not be located within five-hundred (500) feet of any residential zoning district, or within a distance equal to the height of the support structure from the right-of-way line of any interstate or limited-access highway or other major thoroughfare. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.

C. Permitted as Special Land Uses in Other Districts.

If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in subparagraphs (A) and (B) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with subparagraphs (A) or (B) above, a telecommunication antenna and its support structure may be permitted

as a special land use within all other zoning districts, subject to the standards and requirements of Article 21, and further subject to the following conditions:

1. Such telecommunication antenna and support structure shall be located on a priority basis only on the following sites: a) governmentally owned sites; b) religious or other institutional sites; c) public or private school sites; or d) public park and other large permanent open space areas when compatible.
2. Telecommunication antenna support structures in such locations shall be of an alternative or stealth design such as incorporation into a steeple, water tower, bell tower, or other form which is compatible with the existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

D. Required Standards for Telecommunication Antenna and Telecommunication Antenna Support Structures in All Districts.

1. Required Information.

a. Site Plan.

A site plan prepared in accordance with Article 15, also showing as-built drawings for all proposed attached telecommunication antenna and/or telecommunication antenna support structures.

b. Demonstration of Need.

Demonstration of the need for any proposed telecommunication antenna support structure due to a minimum of one of the following:

- i. Proximity to an interstate or limited-access highway or major thoroughfare.
- ii. Proximity to areas of population concentration.
- iii. Proximity to commercial or industrial business centers.

iv. Avoidance of signal interference due to buildings, woodlands, topography or other obstructions.

v. Other specific reasons.

c. Service Area and Power.

As applicable, a description of the planned, proposed, or existing service area of the telecommunication antenna, and telecommunication antenna support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned.

d. Map of Other Facilities Nearby.

A map showing existing or proposed telecommunication communication facilities within the Village of Mattawan *and* within one (1) mile of the Village boundaries, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If the information is on file with the Village, the applicant shall update as needed. A written request for confidentiality must be prominently stated by the applicant.

e. Data on Other Facilities Nearby.

For each location identified by the applicant/provider, the application shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain information:

- i. The structural capacity and whether it can accommodate the applicant's telecommunication antenna, as proposed or modified.
- ii. Evidence of property owner approvals.
- iii. Whether the location could be used by the applicant/provider for placement of its attached telecommunication antenna; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.

f. Fall Zone Certification.

To determine the required setbacks, a State of Michigan registered engineer shall submit a determination and certification regarding the manner in which the proposed structure will fall.

The fall zone or collapse distance as cited in the certification shall therefore be the minimum setback required. However, in the absence of an engineer's certification, the minimum setback shall be equal to the total height of the tower. Furthermore, in no case shall the minimum setback from a property line be less than seventy-five (75) feet.

g. Description of Security for Removal.

A financial security (Performance Guarantee) may be required for the telecommunication antenna support structure to ensure removal and maintenance, in accordance with this portion of the Village of Mattawan Zoning Ordinance. The security shall be required at the discretion of the Planning Commission and shall be in the form of a performance bond or dedicated escrow account placed with the Village for coverage of stated purposes. The security shall be a promise of the applicant and owner of the property to timely remove the facility as required, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by the Village of Mattawan in securing removal.

h. Data on FCC and FAA Approval.

Approved facilities shall be subject to all FAA, MAC and FCC requirements for placement, maintenance, and operation.

- i. All telecommunication antenna support structures shall be located on a minimum of a one-half (1/2) acre parcel and shall have direct or deeded access to a public road right-of-way. Verification of said access shall be provided upon application for approval.

- j. All existing vegetation shall be shown on the submitted site plan and shall be preserved during and after installation to the maximum extent possible. Furthermore, additional landscaping shall be required in accordance with the provisions of this Ordinance for the district in which it is located.

- k. All telecommunication antenna support structure sites shall be fenced with appropriate material with a minimum height of six (6) feet and a maximum height of eight (8) feet. All support structures, wires, and accessory buildings shall be located within the fenced area. The use of barbed wire (except as placed atop a fence for security purposes), electric current or charge of electricity is strictly prohibited.

2. Compatibility of Support Structures.

Telecommunication antenna support structures shall not be injurious to the neighborhood or detrimental to the public safety and welfare. Support structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment. In addition, all structures shall be equipped with an anti-climbing device to prevent unauthorized access.

3. Maximum Height.

The maximum height of telecommunication antenna support structures shall be the lesser of: a) two-hundred (200) feet; or b) the minimum height demonstrated to be necessary by the applicant; or c) such lower heights as required and approved by the Federal Aviation Administration. The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within respective zoning districts.

4. Setbacks from Non-Residential Districts.

Telecommunication antenna support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the required setbacks for the principal buildings for the zoning district in which the support structure is located. But in no case shall the required setback be less than seventy-five (75) feet.

5. Variances.

The Zoning Board of Appeals may grant variances for the setback of a telecommunication antenna support structure to accommodate a change that would reduce its visual impact or to meet the required standards of (D)(10), Colocation. The Zoning Board of Appeals may also grant variances for the height of a support structure of up to fifty (50) feet only in cases where a variance would permit additional colocations.

6. Compatibility of Accessory Structures.

Telecommunication antennas proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building, provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.

7. Appearance of Support Structures.

The color of telecommunication antenna support structures and all accessory buildings shall minimize distraction, reduce visibility, maximize aesthetics, and ensure compatibility with its surroundings. The applicant shall be responsible for the maintenance of the telecommunication antenna support structure in a neat and orderly condition, as well as maintaining the safety of the site and structural integrity of any structures.

8. Federal and State Requirements.

The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan. Structures shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiation. Furthermore, if more restrictive State or Federal standards are adopted in the future, the telecommunication antenna shall be made to conform to the extent required by such standard or the approval and permit for the structure shall be subject to

revocation by the Village. The cost for testing and verification of compliance shall be borne by the operator of the telecommunication antenna.

9. Lighting.

Lighting on a telecommunication antenna support structure shall be prohibited unless otherwise required by the Federal Aviation Administration or Michigan Aeronautics Commission. The applicant shall propose a height reduction to eliminate the need for lighting, or shall submit detailed technical data demonstrating the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for their purposes.

10. Colocation.

All telecommunication antenna support structures shall accommodate no more than six (6) attached telecommunication antennas. Support structures shall allow for future rearrangement of attached telecommunication antennas to accept other attached telecommunication antennas mounted at varying heights.

a. When Colocation is Not "Feasible".

Telecommunication antenna support structures shall not be approved unless the applicant documents that its attached telecommunication antennas cannot be feasibly colocated or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:

- i. The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by licensed engineer, and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- ii. The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed engineer, and the interference cannot be prevented at a reasonable cost.

- iii. Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
 - iv. Other unforeseen reasons that make it not feasible to locate the planned communications equipment upon an existing support structure or other structure.
- b. Determining Feasibility of Colocation.

Colocation shall be deemed to be "feasible" when all of the following are met:

- i. The applicant/provider will pay market rent or other market compensation for colocation.
- ii. The site is able to provide structural support, considering reasonable modification or replacement of a telecommunication antenna.
- iii. The colocation being considered is technically reasonable and will not result in unreasonable interference, given appropriate physical adjustments.
- iv. The height of the structure necessary for colocation will not be increased beyond maximum height limits.

11. Refusal to Permit Colocation.

If a party who owns or otherwise controls a telecommunication antenna support structure shall fail or refuse to alter a structure to accommodate a feasible colocation, such support structure shall thereafter be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

12. Refusal to Colocation Constitutes Violation.

If a party who owns or otherwise controls a support structure shall fail or refuse to permit a feasible colocation, and this requires the construction and/or use of a new support structure, the party failing or refusing to permit a feasible colocation shall

be deemed to be in direct violation and contradiction of the policy, intent and purpose of this Section of the Zoning Ordinance.

13. New Structures Prohibited.

Consequently such party or its agent(s) shall take responsibility for the violation, and shall be prohibited from receiving approval for a new support structure within the Village of Mattawan for a period of five (5) years from the date of the failure or refusal to permit the colocation.

14. Variance from Colocation.

Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.

15. Offer of Colocation Required.

An application for a new telecommunication antenna support structure shall include a letter from the applicant to all potential users offering an opportunity for colocation. The list of potential users shall be provided by the Village of Mattawan based on those entities who have requested approval of a wireless communication facility, current FCC license holders, and other entities requesting to be on the list. If, during a period of thirty (30) days after the notice letters are sent to potential users, a user requests, in writing, to colocate on the new support structure, the applicant shall accommodate the request(s), unless colocation is not feasible based on the criteria of this Section.

16. Removal.

When a telecommunications antenna and/or its support structure has not been used for sixty (60) days, the party or its agent(s) shall notify the Village in writing of its discontinued use and shall initiate removal of all or parts of the

telecommunications antenna and/or its support structure by the users and owners of the antenna and/or the support structure and owners of the property within ninety (90) days of notifying the Village. The removal of antennae or other equipment from the support structure, or the removal of a portion of either, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.

- a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the telecommunication antenna and/or the support structure shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the facility.
- b. If the required removal of the telecommunication antenna and/or support structure, or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Village of Mattawan may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the time application was made for establishing the facility or, if necessary, through appropriate judicial remedies.

17. Emission Standards.

Telecommunication antennae shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions as well as any similar standards associated with microwaves and radiation.

18. Effect of Approval.

- a. Subject to subparagraph (b) below, final approval for a telecommunication antenna support structure shall be effective for a period of six (6) months.
- b. If construction of a telecommunication antenna support structure is commenced within two (2) miles of the land upon which a facility has

been approved, but upon which construction has not been commenced during the six (6) month period of effectiveness, the approval for the support structure that has not been commenced shall be void thirty (30) days following written notice from the Village of Mattawan of the commencement of the other support structure. Such voiding shall apply unless the applicant granted approval of the support structure which has not been commenced demonstrates that it would not be feasible to colocate on the support structure that has been newly commenced.

Section 14.78 Performance Standards.

Any use permitted by this Ordinance, including special uses, is subject to compliance with the performance standards set forth in this section. No use hereafter established shall exceed the limits set forth in this section, except as provided in this Ordinance.

A. Noise.

No operation or activity shall be carried out in any zoning district, which operation or activity causes or creates noise levels exceeding the maximum standards established by the Village Anti-Noise Ordinance or any other applicable adopted Village Ordinance.

B. Dust, Soot, Dirt, Fly Ash, and Products of Wind Erosion.

No person shall operate or cause to be operated or maintained any process for any purpose, a furnace or a combustion device for the burning of coal and/or natural or synthetic fuels without maintaining and operating while using the process, furnace, combustion device, recognized and approved equipment, means, methods, devices, or contrivances to reduce the quality of gas-borne or air-borne solids carried in fumes emitted, directly or indirectly, into the open air, to a concentration level (per cubic foot of the carrying medium at a temperature of five-hundred (500) degrees Fahrenheit) not exceeding two-tenths (0.20) grains. These standards are not intended to apply to residential uses, such as chimneys for fireplaces or wood/coal burning stoves.

C. Smoke.

No person shall discharge into the atmosphere, from any single source of emission, excepting smoke from a chimney for a fireplace or wood/coal burning stove in a residential structure, any smoke of a density or equivalent capacity which exceeds for any

period of time, the density designated as No. 1 on the Ringelmann Chart or twenty percent (20%) opacity, which is hereby incorporated into this Ordinance by reference, except when the emission consists only of water vapors, or the shade, or appearance of which is equal to, but not darker than No. 2 of the Ringelmann Chart, for a period, or periods aggregating four (4) minutes in any thirty (30) minutes.

D. Vibration.

Machines or operations which cause vibration shall be permitted, but no operations shall be permitted to produce ground transmitted oscillations which cause a displacement exceeding that specified in the following tables and/or as measured at the property line. These vibrations shall be measured with a seismograph or accelerometer, preferably the former.

1. The maximum permitted steady state vibration , in inches, is as follows

<u>Frequency</u> <u>(Cycles per second)</u>	<u>Permitted Vibration</u>
10 and below	0.0010
10 to 19	0.0008
20 to 29	0.0005
30 to 39	0.0003
40 and above	0.0001

2. The maximum permitted impact vibration, in inches, is as follows:

<u>Frequency</u> <u>(Cycles per second)</u>	<u>Permitted Vibration</u>
10 and below	0.0020
10 to 19	0.0015
20 to 29	0.0010
30 to 39	0.0005
40 and above	0.0002

Between 8:00 p.m. and 6:00 a.m. of the following day, all maximum vibration levels, as measured at the boundary line of residentially used areas adjacent to non-residentially zoned districts, shall be reduced to one-half ($\frac{1}{2}$) the indicated permissible values by those activities causing the vibration.

E. Odor.

The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.

F. Glare, Heat, and Light.

Any operation producing intense glare or heat (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines and as not to create a public nuisance or hazard along such lot lines, except during the period of construction of the facilities to be used and occupied. Bare bulbs in or near a residentially used area shall be not greater than ten (10) watts. Within five-hundred (500) feet of a residentially zoned area, bare bulbs which are visible in the residential area may not exceed fifteen (15) watts. Exterior lighting shall be so installed that the surface of the source of light shall not be visible from the nearest residential district boundary and it shall be so arranged to reflect light away from any residential use. In no case, shall more than one (1) footcandle power of light cross a lot line five (5) feet or more above the ground. In no case shall more than ten (10) foot candle power of light exist at any given point on site. Exterior spot lighting or other illumination shall be so installed as to eliminate any nuisance to adjoining business and industrial districts or the creation of a traffic hazard on public highways.

G. Fire and Safety Hazards.

The storage and handling of flammable liquids, liquefied petroleum gases, and explosives, ranging from free or active burning to intense burning, as determined by the Fire Chief, and highly toxic and highly radioactive materials shall comply with all state rules and regulations, regulations as established by the Fire Prevention Act, Act 207 of the Public Acts of 1941, as amended (MCLA. 29.1 et seq.), the Flammable and Combustible Liquids Code (pursuant to Act 154 of the Public Acts of 1974, as amended, 29 CFR 1910.106, NFPA prevention codes, and the requirements of the state Fire Marshal.

Further, such materials or products, if stored, utilized, or produced within completely enclosed buildings or structures, shall have incombustible exterior walls and meet the requirements of the applicable building code. All such buildings or structures shall be set back at least forty (40) feet from lot lines and all other such buildings or structures.

Further, all exterior above-ground storage tanks for flammable liquid materials, liquefied petroleum gases, explosives, and highly toxic and highly radioactive materials shall be completely surrounded by earth embankments, dikes, and other types of retaining walls which will contain the total capacity of all tanks so enclosed. Below-ground bulk storage tanks of flammable liquids shall be located not closer to the property line than twice the depth to the bottom of the buried tank.

H. Sewage Wastes.

Sewage wastes shall comply with the Village of Mattawan Code regarding sewer use and the performance measures established therein.

I. Gases.

The escape or emission of any gas which is injurious, destructive, or explosive is unlawful and may be summarily caused to be abated. Sulphur dioxide gas, as measured at the property line at ground elevation, shall not exceed an average of three-tenths (0.3) ppm; hydrogen sulfide shall not exceed one (1.0) ppm; fluorine shall not exceed one-tenth (0.1) ppm; nitrous fumes shall not exceed five (5.0) ppm; and carbon monoxide shall not exceed fifteen (15.0) ppm, all measured as the average intensity during any twenty-four (24) hour sampling period.

J. Radio Transmissions, Explosives, and Radioactive Materials.

For electronic equipment required in an industrial operation, the equipment shall be shielded so that its operation will not interfere with radio, television, or other electronic equipment. All explosives and radioactive materials shall be stored and/or used in a manner which does not endanger abutting properties. Radioactive materials and wastes, and including electromagnetic radiation, such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line. All transportation, including by rail, of radioactive materials, hazardous waste, and toxic waste shall be within permissible standards set by

the federal government. Applicable regulations of the Federal Communications Commission regarding electromagnetic radiation are hereby incorporated into this Ordinance by reference.

K. Drifting and Air-Borne Matter.

The drifting or air-borne transmission beyond the lot line of dust, particles, or debris from any open stockpile is unlawful and shall be summarily caused to be abated.

L. Nuisances.

A person or industry shall not discharge from any source whatsoever such quantities of air contaminants or other materials which cause injury, detriment, or nuisance to the public, which endanger the comfort, repose, health, or safety of the public, or which cause or have natural tendency to cause injury or damage to business or property.

Section 14.80 Site Condominium Projects.

For the purposes of this Ordinance, the term "site condominium project", shall mean a plan or project consisting of not less than two (2) single family units established in conformance with the Michigan Condominium Act, P.A. 59 of 1978, as amended.

Section 14.82 Site Condominium Development Standards.

A. Purpose and Scope

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by the Village of Mattawan Zoning Ordinance may be permitted in a site condominium project.

2. The purpose of this Section is to ensure that the plans for developments within the Village of Mattawan proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, the Village of Mattawan Construction Regulations and Housing Ordinances, and any other applicable Village ordinances and state and federal regulations.

B. Zoning Permit Issuance.

Prior to the issuance of any zoning permit for any use within a site condominium project, the Planning Commission shall have approved a preliminary and final site plan meeting the requirements of this Ordinance.

C. Site Condominium Layout, Design, and Required Improvements

Site condominium subdivision plans shall conform to any design, layout, and improvement standards adopted by the Village of Mattawan.

D. Inspections and Specifications

The Village Council may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this Ordinance. All plans and installation of improvements called for shall be subject to the approval of the Village or its agent, or such other competent persons designated by the Village. All inspection fees shall be paid by the applicant

before the final plan is signed by the Village unless adequate financial guarantees are given prior to final plan approval.

E. Height, Bulk, Density, and Area.

The height, bulk, density, and area by land use requirements set forth in this Ordinance shall also apply to condominium units. For purposes of this section, the minimum building site is equivalent to the minimum lot size of the respective zoning district.

F. Setbacks and Boundaries

The setback requirements for condominium buildings shall be determined as follows:

1. Single Family Detached Units.

- a. The front yard setback shall be one-half (1/2) the approved or recorded street right of way, plus the current setback for the existing zoning district.
- b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development (*boundary line*) shall meet the minimum required side yard setback within the zoning district.
- c. The rear yard setback between the rear of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development (*boundary line*) shall meet the minimum rear yard setback of the zoning district.

2. Multiple Family Units shall meet the standards of the Multiple Family Residential District (R3).

3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the bylaws and recorded as part of the master deed.

G. Common Elements

After construction of a condominium unit, the undeveloped area of a unit shall become a common element.

H. Encroachment

A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

I. Subdivision of Unit Sites

Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the bylaws and recorded as part of the master deed.

J. Conformance with Subdivision Regulations

All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this Ordinance or with the Village's Code of Ordinances.

K. Water and Waste Water

The condominium project shall comply with and meet all federal, state, county, and Village standards for a fresh water system and waste water disposal.

L. Expansion and Conversion

Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.

M. Master Deed

The project developer shall furnish the Village with one (1) copy of the proposed consolidated master deed, one (1) copy of the bylaws, and two (2) copies of the proposed

plans. The proposed plans shall be reviewed for compliance with this Ordinance and the Village's Code of Ordinances and to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.

N. As-Built Plans and Occupancy

Submission of an as-built plan of a condominium unit is required prior to occupancy. The Zoning Official may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the Village Clerk, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the Village. The amount and form of the escrow shall be determined by the Village Council. Fees for these reviews shall be established from time to time, by the Village Council.

O. Final By-Laws, Consolidated Master Deed, and Site Plan

Upon approval of the development, the applicant shall furnish the Village a copy of the by-laws and consolidated master deed. The site plan shall be provided on a mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.

P. Compliance with Other Statutes and Ordinances

All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.

Q. Site Condominium Review and Approval Procedures (Step I Review)

Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Zoning Official, who shall distribute to all Planning Commission members, the Village Manager, and the Village Engineer or Consultant.

- a. A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
 - b. A statement regarding the provision of sewer service and water supply.
2. During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
 - a. General requirements of this Section and other applicable provisions of this Ordinance and the Subdivision Regulation Ordinance.
 - b. Planned or anticipated sites of parks and recreation areas and other public uses.
 - c. Utility system capabilities.
 - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
 - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.
 - f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
3. This review is intended for information purposes only and does not constitute binding commitments on the part of the Village. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
4. Following preliminary review, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:

a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.

b. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

R. Site Condominium Review and Approval Procedures (Step II Review)

1. An application for preliminary review of a site condominium subdivision project shall be made to the Zoning Official along with the appropriate fees as required by Village Council resolution. The application shall, at a minimum contain the following information:

a. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project as proposed is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Village approvals of individual uses on individual building sites.

b. A plan drawn at a scale of not more than one-hundred (100) feet to the inch and shall include or be accompanied by the following information:

i. The name of the project, the name and address of the developer, the name, address, and seal of a registered surveyor or engineer preparing the plan; and a legal description of the property to be subdivided.

ii. A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area, including the existing zoning or abutting areas.

iii. North arrow, scale, contour interval, and legend when appropriate.

iv. Contour elevations adjusted to United States Geologic Service datum at not more than five (5) foot intervals.

v. Where appropriate, established floodplain contours and elevations adjusted to United States Geologic Service datum.

- vi. The location of all existing streets, lots, plats, public utilities, drains, streams, or bodies of water on/or abutting the property.
- vii. The lot lines, intended layout, and intended use of the entire property owned or represented by the developer. The following shall be included:
 - Street and stub street right of way location, width, and curve radii.
 - Proposed street names.
 - Building site lines, site line dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten (10) square feet.
- viii. The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.
- ix. The locations and tentative sizes of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas, ponds, lagoons, slips, waterways, lakes, bays, and canals.
- x. Statements regarding:
 - Intent to utilize private water or sewage facilities.
 - Zoning and lot size requirements.
 - Zoning requirements for front, side, and rear yards.
 - Size and type of street in accord with the Van Buren County Road Commission standards.
 - Intent to install gas, sidewalks, street lights, and shade trees.
 - Use of waterways, rivers, streams, lakes, or ponds.
- xi. The location of all general and limited common elements.
- xii. The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the master deed.

Street and stub-street right of way location, width and curve radii.

Proposed street names.

Building site lines, site line dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten (10) square feet.

c. The applicant's name, address, and phone number.

d. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.

e. The name, address, phone number of the owner(s) of record, and tax parcel number of the property (if different from that of the applicant).

f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.

g. Gross and net size of the parcel in acres.

h. Written comments and/or approvals from the agencies reference in Section R, resulting from their review of the site condominium subdivision plans, as applicable.

i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.

j. A copy of any preliminary agreements which may be required before final plan approval is granted.

k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.

2. The applicant shall provide at least twelve (12) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Zoning Official. The plans at the time of their submittal shall

contain the information required for preliminary site condominium plan as required by this Ordinance.

3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
4. Upon receipt of the preliminary site condominium project plans, the Zoning Official shall forward one copy to each member of the Planning Commission, and the Village Engineer or Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.
5. The Zoning Official shall notify all the members of the Planning Commission that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given at least fifteen (15) days prior to the hearing by one (1) publication in a newspaper of general circulation in the Village and by notice by mail to each public utility company within the geographical sections or divisions of the Village affected by the proposed development. Notices of said hearing shall also be sent, not less than fifteen (15) days prior to the date fixed therefor, by mail to the applicant and to all owners within three-hundred (300) feet of the subject property. For structures containing more than four (4) dwelling units owned or leased by different individuals, partnerships, businesses, or organizations, notice shall be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The Zoning Official shall also give such notice of the meeting as required by the open Meetings Act.

In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval. The Planning Commission shall forward one (1)

copy of the preliminary plan along with a notation indicating preliminary approval and any recommendation to the Village Council for its review and approval.

If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:

1. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
2. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.

The Planning Commission shall forward the Planning Commission's recommendations to the Village Council.

S. Village Council Step II Review and Approval of Preliminary Plan

After receipt of the preliminary plan and recommendation from the Planning Commission, the Village Council shall consider the preliminary plan at its next meeting, or within thirty (30) days from the date of receipt from the Planning Commission.

1. The Village Council shall consider the preliminary plan along with the recommendations from the Planning Commission. If the plan meets the preliminary plan requirements of this Ordinance, the Council shall grant Step II preliminary plan approval and the applicant shall be so notified. Step II approval shall give the applicant the following rights for a two (2) year period from the date of approval:
 - a. That the general terms and conditions under which Step II approval was granted will not be changed by the Village.
 - b. That the building site sizes, orientation, and street layout have been approved.
2. If the preliminary plan substantially meets the requirements of this Ordinance, the Village Council may grant tentative approval of Step II. This approval shall be conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step II. Upon the submission of such

changes, revisions, or additional material to the Village Council, the preliminary plan shall be granted unconditional Step II approval and the applicant shall be so notified.

3. If the preliminary plan cannot meet the requirements of this Ordinance, the Village Council shall deny Step II approval and shall notify the applicant along with the reasons for denial.

T. Requirement of Financial Guarantee

In lieu of completion of all public improvements prior to approval of the final plan, the Village Council may require the developer to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of any public agency other than the Village, responsible for the administration, operation, and maintenance of the applicable public improvement. Completion of improvements shall be required prior to the issuance of occupancy permits for any dwelling or business establishment.

1. Cash deposit, certified check, irrevocable letter of credit:
 - a. A cash deposit, certified check, or irrevocable letter of credit shall accrue to the respective public agency responsible for administering the construction, operation, or maintenance of the specific public improvement. These deposits shall be made with the Treasurer of the respective unit of government of which the public agency is a part, or deposited with a responsible escrow agent, or trust company subject to the approval of the respective governmental body.
 - b. The dollar value of the cash deposit, certified check, or irrevocable letter of credit shall be equal to the total estimated cost of construction of the specified public improvement as determined by the Village Engineer.
 - c. The escrow time for the cash deposit, certified check, or irrevocable letter of credit shall be for a period to be specified by the respective public agency responsible for administering the construction, operation, or maintenance of the specific public improvement.

d. In the case of either cash deposit or certified check, an agreement between the respective public agency and the developer may provide for progressive payments out of the cash deposit or reduction of the certified check to the extent of the estimated cost of the completed portion of the public improvement as determined by the Village Engineer and in accordance with the public agency responsible for administering the specific public improvement.

2. Penalty for failure to complete the construction of a public improvement:

In the event the developer shall, in any case, fail to satisfactorily complete the required construction of public improvement within such period of time as required by the conditions of the guarantee for the completion of public improvements, the Village Council may declare the developer to be in default and require that all the improvement(s) be installed regardless of the extent of the building development at the time the developer is declared to be in default. The Village Council may obtain sums necessary for the cost and expense of such installation by appropriating the amounts necessary to complete the project from the cash deposit, certified check, or irrevocable letter of credit. Nothing contained herein shall prohibit the Village from the pursuit of any other remedies which may be available for breach of agreement and/or for damages including requests for actual attorney fees and costs.

U. Effect of Step II Approval

Approval of a Step II preliminary plan by the Village Council shall serve as conditional authorization to proceed with the project, including the sale and occupancy of individual building sites on the basis of condominium ownership and the construction of required improvements to the land in conformity with approved project plans.

Step II preliminary plan approval shall not serve as the direct authorization for construction of buildings on individual building sites within the development. Prior to building construction, individual uses shall be subject to the customary provisions of the specific zoning district that the subject property is located in, the Schedule of Regulations, and any general or special requirements applicable to the individual use as outlined or referenced in the General Standards and Exceptions portion of this Ordinance or any other applicable requirements of this Ordinance.

V. Final Plan Approval

Within two (2) years from the date of Step II approval of the preliminary plan, the applicant shall prepare and submit the necessary copies of the final site condominium plan to the Village Clerk along with a completed application form and any fee established by the Village Council, at least two (2) weeks prior to the next regularly scheduled Council meeting. The applicant shall also submit the following:

1. Two (2) copies of as-built plans of all required public improvements which shall be reviewed by the Village Engineer or Consultant, for compliance with applicable Village Ordinances.
2. A copy of all final agreements and the master deed which is to be recorded with the Van Buren County Register of Deeds.
3. Letters of approval from all applicable agencies or utilities, stating that improvement have been properly installed and inspected, and inspection fees paid, or that performance guarantees have been submitted for incomplete improvements.
4. If all submissions are found acceptable, the Village Clerk shall submit the same to the Village Council at its next regular meeting for approval.
5. The Village Council shall approve or reject said final plan based upon the plans and other material submitted and the recommendation of the Village Engineer or Consultant and shall notify the applicant in writing.
6. If the final plan is rejected, the Village Clerk shall notify the applicant stating the reasons for denial.
7. All provisions of the site condominium project plans which are approved by the Village Council must be incorporated, as approved in the master deed for the condominium project. A copy of the master deed as filed with the Van Buren County Register of Deeds for recording must be provided to the Village Clerk within ten (10) days after such filing with the County.

Section 14.84 Site Condominium Variances

A. Applications

Application for any variance shall be made in writing by the petitioner prior to the time when the Step II preliminary plan is filed for the consideration of the Planning Commission. The application shall state fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans, or other additional data, which may aid the Planning Commission or the Zoning Board of Appeals in the analysis of the proposed variance.

B. Building Site Area, Width, and Depth Regulations

Variances with respect to individual building site width, depth, and area regulations governed by the district regulations of the zoning district in which the site condominium project is located shall be made to the Zoning Board of Appeals, pursuant to the procedures, rules, and conditions contained in Article 23, unless the proposal is for a planned unit development. In such instances Paragraph (c), below shall apply.

C. Planned Unit Developments

Variances with respect to building site dimensions and uses for planned unit developments under the site condominium form of development may be achieved under the procedures and standards set forth in Article 13, Planned Unit Developments.

D. Required Public Improvements or Utilities

The Village Council, with the recommendation from the Planning Commission, may grant a variance with respect to required public improvements if, in their best judgement, said installations shall be impractical. Provided however, that variances with respect to required public improvements shall not normally be granted unless the average width of the proposed development, as measured at the street frontage is eighty (80) feet or more, and the average building site size is at least ten-thousand-four-hundred (10,400) square feet, or the proposed development is an extension of an existing plat or development which does not have the particular improvement.

In considering variances from the standards or requirements for public improvements and utilities, the Village Council shall find, based upon recommendations from the Planning Commission, that undue hardship or practical difficulties may result from strict compliance with the requirements or that application of the requirement or standard is impractical. The Planning Commission shall only recommend a variance that it deems necessary or desirable to the public interest. In making its finding, the Planning Commission shall take into account the nature of the proposed development, existing land use in the vicinity of the proposed development, the number of persons to reside or work in the proposed development. No such variance shall be recommended unless the Planning Commission finds, after public hearing, all of the following:

1. That there are such special circumstances or conditions affecting the property that the strict application of the improvement standard would clearly be impractical or unreasonable. In such cases, the developer shall first state his/her reasons in writing as to the specific provision or requirement involved and submit them to the Planning Commission.
2. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
3. That such variance will not violate the provisions of the Condominium Act nor create a violation of the Village of Mattawan Zoning Ordinance.
4. That such variance will not have the effect of nullifying the intent and purpose of these regulations and the Comprehensive Plan of the Village.

Section 14.86 Business Park Development Standards

A. Purpose and Scope

Business Park Development is intended to provide a conducive working environment for business research and development facilities, offices, and certain specialized manufacturing establishments, all of a non-nuisance type. The purpose of this section is to ensure that developments proposed to take place within the Business Park District (BPD), are reviewed with the objective and intent of achieving the desired working environment. It is further the intent of this Section to ensure that such development is in

conformance with the requirements of this Ordinance and all other applicable Village Ordinances, state, and federal regulations.

B. Business Park Development Review and Approval Procedures

Application for review and approval of a business park development shall be in accordance with the requirements stated in Article 15 "Site Plan Requirements". The review shall be reviewed for compliance with all applicable standards and requirements as well as the following:

1. Formation of Architectural Review Committee

The developer shall create an architectural review committee prior to the division of land or the creation of a condominium association. Buildings and design criteria, review procedures, and the categories of membership of the committee must be reviewed and approved by the Planning Commission prior to the division of land or the creation of a condominium association.

An alternate to the architectural review committee is the establishment of deed or plat restrictions on building and design criteria. Such restrictions shall be reviewed and approved by the Planning Commission prior to the division of land or the creation of a condominium association.

2. Sidewalk, Bicycle/Pedestrian Path Requirements

- a. All public street frontages shall have sidewalks a minimum of five (5) feet in width or bicycle paths six (6) feet in width on one side of the street. Projects in areas of the Village with pre-existing sidewalks may decrease the width of the new sidewalks to match the width of existing sidewalks.
- b. Private streets may have bicycle or pedestrian paths a minimum of six (6) feet in width in lieu of sidewalks. The bicycle/pedestrian paths need not be located adjacent to such private streets. Lots not served by sidewalks shall be served by bicycle/pedestrian paths.

- c. Sidewalks or bicycle/pedestrian paths shall provide continuous circulation from one lot to another, and to sidewalks or bicycle/pedestrian paths on adjacent properties, if existing.

3. Storage Areas

- a. All storage, except for licensed motor vehicles in operable condition, shall be within completely enclosed buildings.
- b. No outside storage shall be permitted under any conditions, except that construction materials associated with the building or renovating of structures shall be permitted for a period not to exceed one (1) year from the beginning of the construction activity.

4. Set-Back and Screening of Mechanical Equipment

Any mechanical equipment on the roof of the building shall be set back from the building exterior wall a minimum of twenty (20) feet and shall be screened in accordance with Article 18 "Landscaping and Buffer Standards".

5. Building and Total Ground Coverage

- a. The building coverage on any parcel shall not exceed thirty-five percent (35%).
- b. The total ground coverage on any parcel shall not exceed fifty percent (50%).

Section 14.88 Wellhead Protection

The Village has determined that the groundwater underlying the area identified in the Wellhead Protection Area, which is incorporated into this Ordinance by reference, is the sole source of the Village's drinking water, that the groundwater aquifers are integrally connected with, and flow into, the surface waters, lakes, and streams, which constitute a significant public health, recreational, and economic resources of the Village, and that spills and discharges of petroleum products, sewage, and other hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

Therefore, the following standards and requirements are established to preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas and protect them from adverse development and land use practices, preserve and protect present and potential drinking water supply, conserve the natural resources of the Village, protect the financial investment of the Village in its drinking water supply system, and to meet state requirements for wellhead protection.

The following shall apply to all land uses, including private and public facilities that are located within the area identified in the Wellhead Protection Area, and that use, store, or generate hazardous substances in quantities greater than 100 kilograms per month, and which require site plan review and approval under the provisions of this Ordinance:

A. General Provisions

1. Groundwater Protection

- a. Stormwater management and drainage facilities shall be designed in addition to any other standards established by this Ordinance, to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential of environmental contamination, on-site or off-site, and shall not result in loss of use of property by any third party.
- b. General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit.
- c. Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills, and unpermitted discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands, and the sanitary sewer.
- d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport, and disposal of hazardous substances and polluting materials shall be met.

2. Aboveground Storage and Use Areas for Hazardous Substances and Polluting Materials

- a. Primary containment of hazardous substances shall be "product-tight" and shall consist of a tank, pit, pipe, or vessel.
- b. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance and shall consist of a second tank, catchment pit, pipe, or vessel.
- c. Outdoor storage of hazardous substances shall be prohibited, except in "product-tight" containers which are protected from weather, leakage, and accidental damage and vandalism.
- d. Out-buildings, storage rooms, sheds, etc., that are utilized as secondary containment, shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies, unless a surface or groundwater discharge permit has been obtained pursuant to the applicable requirements of PA 245, as amended.

3. Underground Storage Tanks

- a. All pertinent state and federal requirements regulating the installation, inspection, maintenance, removal, and Remediation of underground storage tanks shall be adhered to.

4. Well abandonment

- a. Out of service wells shall be sealed and abandoned in accordance with the applicable requirements of the Michigan Department of Environmental Quality.

5. Site with Contaminated Soils and/or Groundwater

- a. Development plans shall identify all such areas.
- b. Development on contaminated areas shall not be permitted unless information from the appropriate state and federal agencies is available indicating that an approved clean-up of the contaminated area is to occur in a timely fashion.

6. Construction Standards

- a. Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container of over 25 gallons or 220 pounds, containing hazardous substances shall have secondary containment.
- b. Upon completion of construction, all hazardous substances and containment systems no longer in use, shall be removed from the construction site and disposed of in a manner consistent with applicable local, state, and federal requirements.

7. Maintenance

- a. In areas where hazardous substances are handled, structural integrity of the building shall be maintained to avoid inadvertent discharge of chemicals to soil and groundwater.

B. Required Information for Site Plan Review

- 1. In addition to the otherwise required site plan information, the following information shall be provided, where applicable on the development plan submitted for review and approval:
 - a. Location and size of interior and exterior areas and structures to be used for on-site storage, use, loading/unloading, recycling, or disposal of hazardous materials.
 - b. Location of all underground and above ground storage tanks for such use as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated stormwater or wash water, and all similar uses.
 - c. Locations of exterior drains, dry wells, catch basins, retention/detention ponds, sumps, and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified.
 - d. Areas on site believed to be contaminated.
 - e. All applicable local, state, and federal checklists.

