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**SECTION 2.01 RULES APPLYING TO TEXT**

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

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The words “used” or “occupied”, as applied to any land or buildings, shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied”.
- G. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms "and", "or", "either...or", such conjunction shall be interpreted as follows:
  - A. "And" denotes that all the connected items, conditions, provisions, or events apply in combination.
  - B. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- H. “Village” shall refer specifically to Village of Bellaire.
- I. The term “person” shall mean an individual, firm, corporation, association, partnership, limited liability company or other legal entity, or their agents.
- J. Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- K. The term “adjoining lots and parcels” is intended to include lots and parcels separated by highways, roads, streets or rivers.
- L. Any necessary interpretation of this Ordinance shall be defined by the Village Zoning Board of Appeals.

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**SECTION 2.02 DEFINITIONS**

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For the purpose of this ordinance, the following terms and words are defined as follows:

**Accessory Building or Structure** – Any building or structure that is customarily incidental and subordinate to the use of the principal building or structure, including but not limited to, accessory buildings, personal freestanding television, radio or wireless communication antennas and signs. An accessory structure attached to a main structure shall be considered part of the main structure.

**Accessory Building, Major** – Any accessory structure that is not a minor accessory building.

**Accessory Building, Minor** – An accessory structure 200 square feet or less with no permanent footings or foundations and/or no water/sewer connections.

**Accessory Use** – A use naturally and normally incidental and subordinate to the main use of the land or building.

**Adult Arcade** – Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

**Adult Bookstore or Adult Video Store** – A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

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

**Adult Cabaret** – A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- C. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

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

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the

depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;

- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

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

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

**Alterations** – Any change, addition or modification in construction or type of occupancy; any change or rearrangement in the structural parts of a building; any enlargement of a building or any change which may be referred to herein as “altered” or “reconstructed”.

**Alternative Tower Structure** – Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Anemometer** – An instrument for measuring and recording the speed of the wind.

**Antenna** – Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals or other communication signals.

**Appearance Ticket** – see Municipal Civil Infraction Citation.

**Architectural Features** – Parts of a building which are not for human occupancy, that shall include but are not limited to cornices, eaves, gutters, sills, lintels, bay windows, chimneys, cupolas and decorative ornaments.

**Assisted Living** – A living arrangement which provides housing and limited services such as recreation, meals and help with everyday tasks such as bathing, dressing, and taking medication to individuals who are partially able to provide services to themselves.

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

**Automobile Wash Establishment** – A building, or portion thereof, the primary purpose of which is washing motor vehicles.

**Average** – For the purpose of this Ordinance, the term, "average" will be an arithmetic mean.

**Basement**– A story having more than one-half of its height below the average finished level of the adjoining ground. A basement shall not be counted as a story for the purpose of height measurement in stories.

**Bed & Breakfast Establishment** – A dwelling, or portion thereof, where overnight and short-term lodging rooms and meals are provided for compensation.

**Board of Appeals** – As used in this Ordinance, this term means the Village of Bellaire Zoning Board of Appeals.

**Boarding House** – See Rooming House.

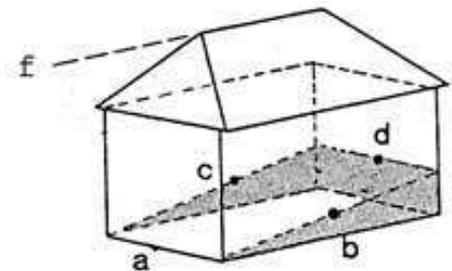
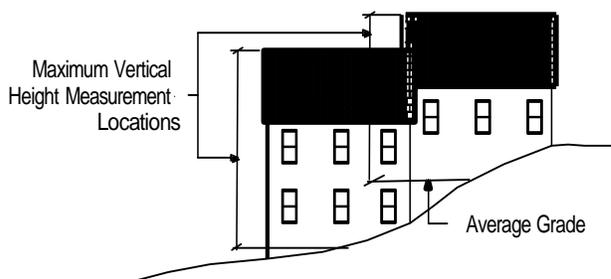
**Boat and/or Canoe Livery** – A place where boats and/or canoes are stored, rented, sold, and docked.

**Brewery** – A nonresidential structure in which a person is licensed by the Michigan Liquor Control Commission to manufacture and sell any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, or other cereal in potable water. [Added on 8-2-2017 by Ordinance No. ZO #01 of 2017, effective 8-18-2017.]

**Building** – A structure either temporary or permanent, having a roof supported by columns or walls.

**Building Height:** The vertical distance from the peak of the roof to the average finished grade. When the terrain is sloping, the height shall be computed using the average grade measured at the building wall on all four sides (see Figure).

No portion of the structure's roof may exceed the maximum height allowed in the specific District regulations. As illustrated in Figure below, buildings may be "stair stepped" up and down slopes. The building height shall be calculated for each "stair stepped" portion separately.



a, b, c, d = avg finished grade on each building wall  
 Average Grade (entire building):  $(a+b+c+d)/4 = e$   
 Height = f (elevation at peak) – e (average grade)

**Campgrounds** – Any parcel or tract of land, under the control of any person wherein pre-established sites are offered for the use of the public or members of an organization, either free

of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units and/or tents.

**Child Care Facility** – A facility for the care of children (persons under 18 years of age), as licensed and regulated by the state under Act 116 of the Public Acts of 1973, being M.C.L. §§ 722.111 through 722.128, and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

- A. **Family Day Care Home** – A private home operated by a Michigan licensed day care operator in which at least one (1) but less than (7) seven children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent and legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year. Use by right where allowed if a 400 square foot fenced in play area is installed and a copy of the State license is presented with the permit application.
- B. **Group Day Care Home** – A private home operated by a Michigan licensed day care operator in which more than six (6) but not more than 12 children are given care and supervision for periods less than 24 hours a day, unattended by a parent or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year. Requires a special use permit.
- C. **Child Care Center or Day Care Center** – A facility, other than a private home, receiving more than six pre-school or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative pre-school, play group or drop-in center. Child Care Center or Day Care Center does not include a Sunday school conducted by a religious institution or a facility operated by a religious institution where children are cared for during short periods of time while persons responsible for such children are attending religious services. Requires a special use permit.

**Church** – See Place of Worship.

**Co-location** – The use of a wireless telecommunication tower by more than one wireless telecommunication provider.

**Condominium Project** – A plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Act 59 of 1978, as amended).

**Condominium Unit** – That portion of a condominium project designed and intended for use by the unit owner consistent with the provisions of the master deed.

**Cottage Industry** – See Home Business, Cottage Industry.

**Deck** – A structural platform without a roof or walls, typically used for outdoor living purposes that may or may not be attached to a building.

**Distillery** – A nonresidential structure in which a person is licensed by the Michigan Liquor Control Commission to manufacture and sell (1) the product of distillation of fermented liquid, whether or not rectified or diluted with water, but not including ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes, and/or (2) a beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink. [Added on 8-2-2017 by Ordinance No. ZO #01 of 2017, effective 8-18-2017.]

**Districts** – Portions of the Village within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. “Districts” as used herein is synonymous with the word “zones” or “zoning districts.”

**Drive-through Business** – Any restaurant, bank or other business with an motor vehicle service window.

**Dwelling** – A single unit building, or portion thereof, which provides complete independent living facilities for one (1) family for residential purposes, and includes permanent provisions for living, sleeping, heating, cooking, and sanitation. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling.

**Dwelling, Accessory** – A dwelling accessory to a single family residence or a commercial business, located either in the principal structure or an accessory building, such as a garage. An accessory dwelling commonly has its own kitchen, bath, living area, sleeping area and usually a separate entrance.

**Dwelling, Manufactured** – A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended, and
- B. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent dwelling or as a module to be combined with other elements to form a complete dwelling on the site.

**Dwelling, Mobile** – A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended.

**Dwelling, Multiple-Family** – A building, or portion thereof, containing three (3) or more dwellings designed exclusively for occupancy by three (3) or more families living independently of each other.

**Dwelling, Single-Family** – A building, or portion thereof, containing one (1) dwelling designed exclusively for occupancy by one (1) family.

**Dwelling, Two-Family** – A building, or portion thereof, containing two (2) dwellings designed exclusively for occupancy by two (2) families living independently of each other.

**Easement** – A legal property right, held by a person to use the land of another person for a specific purpose.

**Efficiency Unit** – A dwelling small unit consisting of one room, exclusive of bathroom, hallway, and closets.

**Enclosed, Locked Facility** – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

**Escort** – A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Escort Agency** – A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**Education Facility**– A public or private educational facility or institution offering students academic, academic support services or vocational/trade programs and/or curriculum. Such term shall also include all adjacent properties owned by and used by such facilities/programs for educational, research, and recreational purposes.

**Essential Services** – The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards of underground or overhead gas, electrical, steam, water, or sewer transmission, distribution, collection, supply or disposal systems including poles, wires, mains, pipes, conduits, cables, hydrants, and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication towers or facilities, alternative tower structures, wireless communication antenna and wind turbine generators are not included within this definition.

**Excavating** –The act of moving, filling or removal of earth, sand, stone, gravel, or dirt.

**Family** – An individual, or two (2) or more persons related by blood, marriage, or adoption, together with not more than three (3) persons not so related, occupying a dwelling and living as a single nonprofit housekeeping unit with single culinary facilities, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity, or similar dwelling for group use.

**Fence** – Any permanent or temporary means, partition structure or gate erected as a dividing structure or barrier.

**Floor Area** – The square footage of floor space measured from exterior to exterior wall for all floors, but not including enclosed and unenclosed porches, breezeways, non-commercial garages, attic, unfinished basement and cellar area.

**Garage - Private** – A building typically used for the storage of vehicles for the use of the occupants of a lot on which such building is located.

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

**Grade, Finished** – The elevation of the ground upon the completion of construction and improvements.

**Greenbelt, Waterfront** – A strip of land twenty-five feet in depth landward from and parallel with the Ordinary High Water Mark.

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

**Home Business** – A profession or occupation, or trade that is accessory to a principal residential use conducted within a dwelling or an accessory building to that dwelling. Home businesses fall into two classifications defined below:

**Home Occupations** – A profession or occupation conducted within a dwelling, or an attached garage, which is clearly incidental and secondary to the use of the lot, or dwelling for residential purposes, and includes an occupation to give instruction in a craft or fine art within a residence, as required under the Michigan Zoning Enabling Act. Home occupations are regulated by **Section 3.07**.

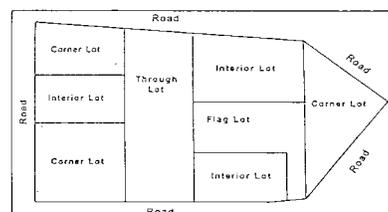
**Cottage Industry** – An occupation or trade conducted within a detached accessory building to a dwelling, which is clearly incidental and secondary to the use of the lot, and dwelling for residential purposes. Cottage industries are regulated by **Section 3.07**.

**Hotel or Motel** – A building in which transient lodging or boarding and lodging are offered to the public for compensation. Boarding houses and apartments are excluded.

**Landscape Buffer** – A strip of land for planting of shrubs and/or trees to serve as an obscuring screen to carry out the requirements of this Ordinance.

**Loading Space** – An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Loading space(s) shall not be included as an off-street parking space in computation of the required off-street parking.

**Lot** – A parcel of land, either described by metes and bounds or by reference to a recorded plat, or a site condominium unit occupied or to be occupied by a use or building and its accessory buildings or



structures together with such open spaces, minimum area, and width as required by this Ordinance for the zoning district in which it is located.

**Lot - Corner** – A lot that occupies the interior angle at the intersection to two (2) street lines which make an angle of less than one hundred forty-five (145) degrees.

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

**Lot, Interior** – A lot with frontage on one (1) street.

**Lot Line, Front** – In the case of an interior lot, the boundary line of the lot immediately adjacent to the street right-of-way upon which the lot fronts; in the case of a corner lot, the front lot line shall be the boundary line of the lot immediately adjacent to the street right-of-way that the driveway enters from or the designated front entrance to the home.

**Lot Line, Rear** – A lot line which is opposite and most distant from the front lot line and, in the case of an irregular shaped lot, a line ten (10') feet in length within the lot, parallel to and at the maximum distance from the front lot line.

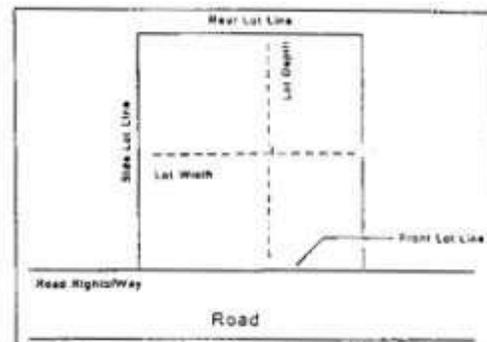
**Lot Line, Side** – Any boundary line not a front lot line or a rear lot line.

**Lot of Record** – A lawfully created lot defined by a legal description and recorded in the office of the Antrim County Register of Deeds on or before the effective date of this Ordinance or relevant amendments to this Ordinance.

**Lot, Through** – A lot, other than a corner lot, having frontage on more than one (1) street. Front yard corresponds to the accepted front door of the home.

**Lot Width** – The distance between the side lot lines measured at right angles to the lot depth at point midway between the front and rear lot lines.

**Lot, Waterfront** – A lot having a lot line abutting the shore of a lake or river.



**Manufacturing** – To make or process (a raw material) into a finished product, especially by means of a large-scale industrial operation; or to make or process (a product), especially with the use of industrial machines. To create, produce, or turn out in a mechanical manner or to concoct or invent; fabricate.

**Marina, Commercial** – A facility which extends into or over a lake, river or stream and that provides docking, storage, maintenance and other facilities for watercrafts. Slips may be rented, leased, or sold on a transient, short term, or long term basis to the general public.

**Mobile Food Vending** – Serving or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a ‘food service establishment’ under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with food.

**Mobile Food Vending Unit** – Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served or offered for sale.

**Mobile Food Vendor** – Any individual engaged in the business of Mobile Food Vending: if more than one individual is operating a single stand, cart or other means of conveyance, then Mobile Food Vendor shall mean all individuals operating a single stand, cart, or other means of conveyance.

**Mobile Home Park** – A parcel of land which has been designed and improved for the placement of three (3) or more mobile homes.

**Mobile Home Site** – A plot of land within a mobile home park designed to accommodate one mobile home.

**Marijuana or Marihuana** – That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

**Medical Use** – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

**Mobile Home** – see Dwelling, Mobile.

**Motel** – see Hotel.

**Municipal Civil Infraction Citation** – A written complaint or notice prepared by an authorized Village Official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

**Nonconforming Structure** – A building, structure, or portion thereof lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located.

**Nonconforming Lot of Record** – A lot lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located.

**Nonconforming Sign** – A sign lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located. A nonconforming sign shall be considered a nonconforming structure.

**Nonconforming Use** – A use lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable use regulations of the zoning district in which it is located.

**Nude Model Studio** – Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

**Nudity or a State of Nudity** – Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
- B. Material as defined in Section 2 of Act No 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

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

**Nursing Home** – A establishment where maintenance and personal or nursing care are provided for persons (as the aged or the chronically ill) who are unable to care for themselves properly.

**Occupancy Permit** – A permit issued by the Antrim County building official that certifies a structure as being completed and suitable for use and/or occupancy.

**Open Space** – An area that is intended to provide light and air, and is designed for environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation area, playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel. In no event shall any area of a lot constituting neither the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space.

**Operate** (as related to Mobile Food Vending) – All activities associated with the conduct of business, including set up and take down and/or actual hours when the mobile food vending unit is open for business.

**Ordinary High Water Mark** – The line between the upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is

apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high- established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

**Owner** – A person holding any legal, equitable, option or contract interest in land.

**Park** – Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.

**Person(s)** – An individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

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

**Planned Unit Development (PUD)** – A type of development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development. Such developments can be proposed as either single use (such as a residential site condominium project), or mixed use developments (such as a project which includes both residential and commercial components).

**Planning Commission** – For the purpose of this Ordinance, the term Planning Commission is deemed to mean the Village of Bellaire Planning Commission.

**Plot Plan** – The drawings and documents depicting and explaining all salient features of a proposed use for which a zoning permit is required, but a full site plan is not required, in order to evaluate compliance with Ordinance standards and requirements.

**Primary Caregiver** – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act.

**Principal or Main Use** – The primary or predominant use and chief purpose of a lot or structure.

**Qualifying Patient** – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act, and includes the parents or legal guardians of a qualifying patient under the age of 18 who are serving as the primary caregiver as required by the Michigan Medical Marijuana Act exclusively for that qualifying patient under the age of 18.

**Recreational Vehicle (RV)** – Any self-propelled motorized vehicle or travel or camping trailer, normally used only for vacation or recreational purposes.

**Recreational Vehicle Park (RV Park)** – Any site, lot, field or tract upon which one (1) or more occupied R.V. are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such R.V. park; which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Public Health.

**Right-of-Way** – A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

**Rooming House** – As residential building where rooms or suites are rented where the renter uses common facilities such as hallways and bathrooms. A rooming house shall not include hotels, motels, apartment houses, multi-family dwellings, duplexes, or fraternity and sorority houses.

**Setback** – The minimum horizontal distance from an applicable lot line within which no building or structure can be placed, except as otherwise provided in this Ordinance.

**Setback, Front** – The required setback measured from the front lot line.

**Setback, Rear** – The required setback measured from the rear lot line.

**Setback, Side** – The required setback measured from a side lot line.

**Sexual Encounter Center** – A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

**Sexually Oriented Business** – A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

**Shed** – See “Accessory Structure, Minor”.

**Sign** – A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of and for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

**Sign Area** – The entire area within a circle, triangle, parallelogram or any other shape which encloses the extreme limits of writing, representation, emblem, logo, or any other figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

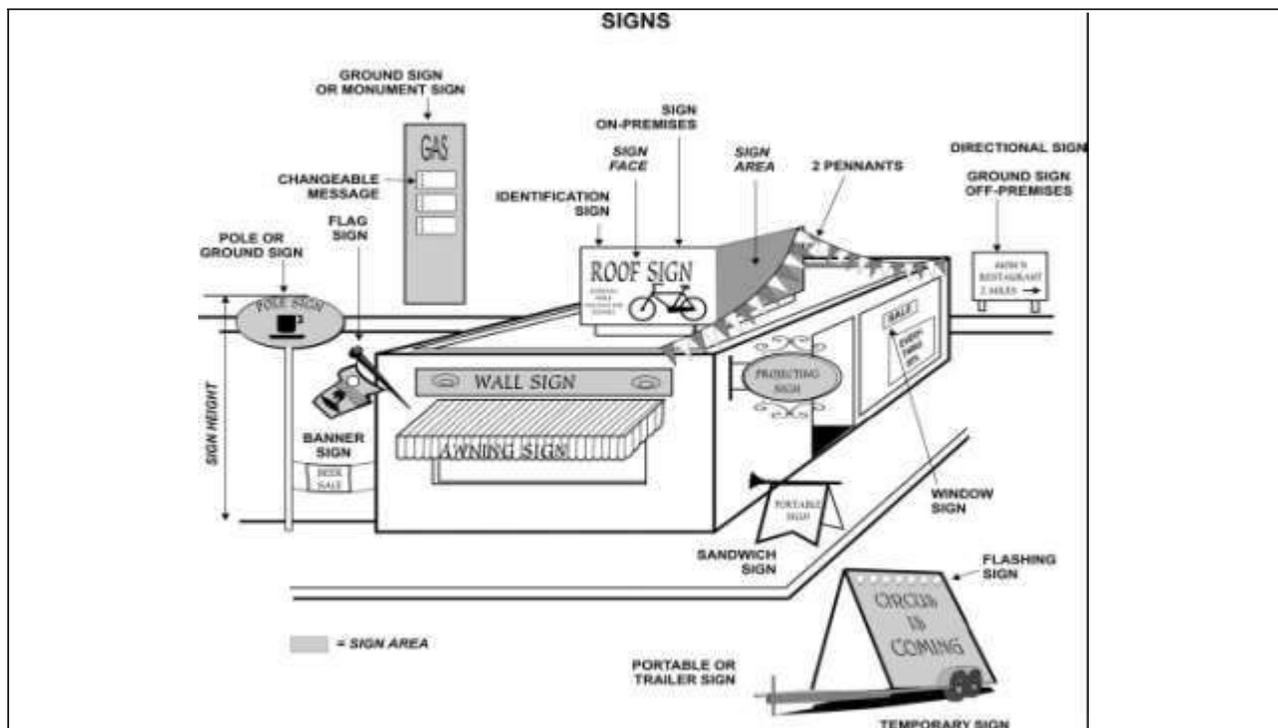
**Sign, Accessory** – A subordinate sign for traffic management or directional purposes only, which provides no advertising display or commercial message. (i.e. handicap parking signs).

**Sign, Changeable Message** – A sign designed so that the message displayed can be easily changed by hand, mechanically or electronically.

**Sign, Freestanding or Ground** – A sign supported by permanent uprights or braces in the ground.

**Sign, Height of** – The vertical distance measured from the ground immediately beneath the sign to the highest point of the sign or its projecting structure.

**Sign, Identification** – A sign whose copy is limited to the name and address of a building, institution, or person and/or the activity or occupation being identified.



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**Sign, Nonconforming** – A sign lawfully existing on the effective date of this Zoning Ordinance or amendment thereof, which does not conform to one or more of the regulations set forth in this Zoning Ordinance.

**Sign, Permanent** – A sign constructed of durable materials, installed in a secure manner which is intended to exist for the duration of time that the use or occupant is located on the premises.

**Sign, Portable** – A freestanding sign not permanently anchored or secured to either the building or the ground (such as a sandwich sign), and includes trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.

**Sign, Projecting**– A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

**Sign, Temporary** – Any sign or advertising device intended to be displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area, or neighboring property.

**Sign, Wayfinding** – A sign including maps, graphics or audible methods used to convey location and directions to visitors.

**Site Condominium Unit** – That portion of a condominium subdivision designed and intended for occupancy and used by the unit owner consistent with the provisions of the master deed.

**Site Plan** – The drawings and documents depicting and explaining all salient features of the a proposed development so that it may be evaluated by the Planning Commission according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

**Specified Anatomical Areas** – Areas of the human body that are either of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely & opaquely covered.

**Specified Sexual Activities** – Activities that are any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks anus, or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in A through C above.

**State Licensed Residential Facility** – A structure constructed for residential purposes that is licensed by the State pursuant to Act No. 218 of the Public Acts of 1979, as amended, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care.

**Story** – That portion of a building included between the surface of any floor and surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it, and exclusive of any mezzanine, balcony or basement.

**Structure** – Anything constructed, assembled, or erected, the use of which requires location on or beneath the ground or attachment to something on or beneath the ground, including but not limited to, dwellings, garages, principal and accessory buildings, mobile homes, fences, signs, towers, poles, underground storage tanks, decks, seawalls, docks, and other similar objects, but not including compacted gravel, concrete, or asphalt used as part of an approved parking area, driveway, or sidewalk, boardwalks, pathways, underground sprinkler systems on your own property and underground storm water retention systems consisting exclusively of pipes and rocks.

**Telecommunication Towers and Facilities or Tower** – All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

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

**Transfer of Development Rights** – The conveyance of development rights by deed, easement, or other legal instrument authorized by local law to another parcel of land.

**Use** – The lawful purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied according to this Ordinance.

**Variance, Dimensional** – A dispensation granted by the Zoning Board of Appeals to provide relief from a specific regulation in this Ordinance, which usually relates to an area, dimension, or construction requirement/ limitation.

**Variance, Use** – A dispensation granted by the Zoning Board of Appeals which authorizes a land use on a parcel which otherwise is not permitted by this Zoning Ordinance in the district in which the parcel is located.

**Vehicle Sales** – A licensed dealership primarily for the sale of vehicles, new and/or used.

**Vicinity Sketch** – A graphic depiction of a subject property as well as all properties within three hundred feet the associated land uses of such properties and the identification of streets in this area.

**Wetlands** – means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- (i) Contiguous to the Great Lakes, an inland lake or pond, or a river or stream.
- (ii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subparagraph shall not be of effect, except for the

purpose of inventorying, in counties of less than 100,000 population until the department certifies to the commission it has substantially completed its inventory of wetlands in that county.

- (iii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time.

**Wind Turbine Generator** – A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

**Wind Turbine Generator, Commercial** – A wind turbine generator designed and used primarily to generate electricity by or for sale to utility companies.

**Wind Turbine Generator, Noncommercial** – A wind turbine generator designed and used primarily to generate electricity or produce mechanical energy for use on the property where located.

**Wind Turbine Generator Tower Height** – The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

**Yard** – The space between a principal building, excluding steps and unenclosed porches, and a lot line.

**Yard - Front** – A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest wall of the principal building.

**Yard - Rear** – The yard between the principal building and the rear lot line extending across the entire width of the lot.

**Yard - Side** – The yard between the principal building and a side lot line extending between the front yard and the rear yard.

**Zoning Administrator** – The person retained by the Village of Bellaire and designated to administer and enforce this Ordinance.

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