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**SECTION 3.01 THE EFFECTS OF ZONING**

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- A. Except in the case of lawful nonconformities, per **Article 5**, no excavation for construction purposes, use or activity on a piece of land shall be established, no building or part thereof shall be allowed to be used, constructed, altered or moved upon any property unless it is in conformance with this Ordinance, and a zoning permit has been obtained as required by **Section 10.02**.
- B. If any activity, use, building, structure or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this Ordinance, such activity, use, building or structure shall be declared a nuisance per se and may be required to be vacated, dismantled, abated, or cease operations by any legal means necessary and such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this Ordinance.
- C. In the event that any lawful use, activity, building or structure which exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconformity and be allowed to remain as such, including completion of construction, providing said construction does not require more than one (1) year from the effective date of this Ordinance for completion. If said construction is continued for more than one (1) year, the legal status of the activity, use, building or structure shall be determined by the Village of Bellaire Planning Commission.

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**SECTION 3.02 AIRPORT ZONING**

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In addition to the requirements of this Ordinance, all land within the Village of Bellaire shall be subject to the regulations of the Antrim County Airport Zoning Ordinance.

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**SECTION 3.03 ESSENTIAL SERVICES**

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- A. The erection, construction, alteration, maintenance, and operation by utilities or municipal departments or commission, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, hydrants, structures, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by any laws and the ordinances of the Village of Bellaire in any Zoning District.
- B. Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

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**SECTION 3.04 ACCESSORY BUILDINGS AND STRUCTURES**

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- A. An accessory building connected to the principal building by a roofed structure or shared

- wall shall be considered part of the principal building, provided the accessory building and connection to the principal building are approved by the Antrim County Building Department to ensure the applicable Construction Code requirements are met.
- B. An accessory structure which is connected to a principal building by means other than provided for in subsection A above, shall not be considered part of the principal building.
  - C. No Accessory buildings shall be permitted on a lot without a principal building or a valid zoning permit for the construction of the principal building, except in the case of contiguous parcel or parcels separated by a public or private road which are under the same ownership and the owner of the two lots records deed restrictions (or other legal instruments) acceptable to the Village attorney with the county Register of Deeds Office requiring the two lots to be used and/or sold as one development site.
  - D. The total ground level square footage of all accessory structures on any single lot or parcel shall not exceed one and half times first floor square footage of the principal structure on such lot or parcel.
  - E. Two major accessory buildings shall be permitted per lot or parcel.
  - F. Except for minor accessory buildings (200 sf or less), a detached accessory building or structure shall be located in accordance with the applicable district setback requirements, and maintain at least ten (10) feet between buildings, per **Section 3.21**.
  - G. Manufactured homes, mobile homes, RV's, and recreational vehicles, shall not be used as an accessory building or structure.
  - H. Except prefabricated accessory buildings, accessory buildings shall have eaves and soffit.
  - I. In addition to the allowed major accessory buildings or structures, two (2) minor accessory building/shed of not more than 200 square feet shall be allowed, and shall be located no closer than five (5) feet from a side or rear lot line regardless of the zoning district in which it is located.

### **SECTION 3.05 TEMPORARY DWELLING OCCUPANCY DURING CONSTRUCTION**

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For the express purpose of promoting the health, safety and general welfare of the inhabitants of the Village of Bellaire, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, tent, camper, travel trailer, recreational vehicle, mobile home not installed according the requirements of this Ordinance, or other temporary structure shall hereafter be erected or moved upon any premises and used for dwelling purposes except under the following applicable conditions:

- A. The location shall conform to the provisions governing yard requirements of principal dwellings in the district where located.
- B. The use shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a dwelling conforming to the provisions of this Ordinance is in process of erection and completion or during the period necessary for the remodeling, or the repair of damage to a dwelling caused by fire, flood, or other natural disaster, but only when the dwelling is not habitable due to the damage or during the remodeling. The temporary dwelling use authorized in this subsection shall not exceed twelve (12) months. One (1) additional twelve (12) month extension may be obtained from the Zoning Administrator beginning with the date of issuance of the zoning permit. Upon completion, repair, or remodeling of the principal dwelling, the

temporary dwelling shall be removed from the property, or utilized in compliance with this Ordinance. [Amended 07-01-2020 by Ord # ZO 2020-01, eff. 07-17-2020].

- C. Water and sewage disposal shall be provided in compliance with the applicable Village Ordinances, and in accordance with any applicable District Health Department regulations, and shall precede occupancy of the temporary dwelling.
- D. Application for the erection and use of a temporary dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify that he or she has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person.
- E. No annexes shall be added to temporary dwellings.

### **SECTION 3.06 MOBILE HOMES**

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- A. Newly sited mobile homes located on individual lots shall meet the standard yard setbacks, minimum floor area and minimum dwelling unit width for the district in which they are located and shall meet the following additional standards:
  - 1. Mobile homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Mobile Home Commission requirements.
  - 2. Mobile homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974, as amended.
  - 3. The wheels and axles shall be removed from a mobile home before the unit is attached to the foundation. Additionally, no mobile home shall have any exposed undercarriage or chassis.
  - 4. All mobile homes shall have manufacturer's certified minimum roof load of 30 pounds per square foot.
  - 5. Mobile homes shall not be used as an accessory building.
- B. Replacement of lawfully existing non-conforming mobile homes shall be allowed provided the replacement would improve the property, would not increase the non-conformity and shall meet the standards listed in **Section 3.06A** above.

### **SECTION 3.07 HOME BUSINESS**

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The regulation of home occupations and cottage industries as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to change the essential residential character of residential districts, in terms of use and/or appearance. The nonresidential use shall only be incidental to the primary residential use.

- A. **Site and Development Standards**  
Home occupations or cottage industries, as defined in Article 2 of this Ordinance, shall comply with the following site and development standards:

Standard	Home Occupation	Cottage Industry
Structure Used	Primary dwelling only	Primary Dwelling or Accessory Structure
Outdoor Storage or Display	Not allowed	If screened, screening approved by Planning Commission
# of Nonresident Employees	1	2
Retail Sales	N/A	Limited retail sales (incidental to residence) and does not create a nuisance
Traffic	Traffic – shall not exceed that normally created by residential use	Traffic – shall not exceed that normally created by residential use
Parking	No additional off-street parking demand	Not to exceed number of parking spaces set by PC, after consideration of the standards set forth in <b>Section 3.14.B.6.</b>
Appearance	No change in exterior appearance of residence, other than sign, unless required by the Antrim County Building Department.	Shall not detract from the residential character of the premises or neighborhood
Nuisance	No noise, vibration, glare, fumes, odors or electrical interference detectable off-site	Shall not create nuisance, due to objectionable levels of noise, vibration, glare, fumes, odors or electrical interference detectable off-site
Hours of Operation	Customer visits limited to 8:00am to 8:00pm	Approved by Planning Commission
Signs	4 square feet	4 square feet
<b>Approval/permit required</b>	Zoning Permit	Special Approval required

B. Termination, Extensions, Revisions, and Inspections

1. Upon written application by the owner, the Planning Commission may, for just cause, grant a time extension for compliance with the conditions of this Section.
2. Any cottage industry shall be subject to periodic review by the Zoning Administrator.
3. If the Zoning Administrator has reason to believe the property owner is in violation of his or her permit or grounds for revocation exist, written notice of alleged violation(s) shall be sent to the operator of the home occupation or cottage industry.
4. Proposed revisions or additions to a cottage industry shall constitute a change of use and shall be subject to special use review and approval by the Planning Commission.

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**SECTION 3.08 RECREATIONAL VEHICLES FOR LODGING OR CAMPING PURPOSES  
[AMENDED 07-01-2020 BY ORDIN # ZO 2020-02, EFF. 07-17-2020].**

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- A. One (1) RV may be located and occupied on a vacant parcel or lot for up to thirty (30) days per calendar year, but not more than fifteen (15) consecutive days. A zoning permit is required.
- B. Group gatherings with multiple RVs located on a parcel or lot shall be allowed one time per calendar year, for not more than 10 consecutive days provided Health Department approved temporary sanitary facilities are provided, and with a zoning permit.
- C. In the event of an extreme medical emergency the Planning Commission may allow the temporary placement of a RV on any lot with occupied dwelling unit in the Village, but not to exceed six (6) months.
- D. Recreational vehicles may be located and occupied on a lot with a dwelling unit without a zoning permit, subject to the following requirements:
1. No more than one (1) recreational vehicle may be occupied simultaneously on the same lot.
  2. The occupancy of any recreational vehicle shall not exceed a total of fifteen (15) days in any calendar year.
  3. Each recreational vehicle shall fully comply with all setback requirements of the zoning district within which it is located.
- E. One (1) RV may be stored on the lot of any occupied dwelling unit in the Village provided all of the following conditions are met:
1. The RV shall carry currently valid state license plate.
  2. The RV shall not be occupied or used as a dwelling while stored, except as provided for in C.
  3. The RV shall not be connected to water and sewer services, while stored.
  4. Wheels and tires are not removed at any time while stored except for the purposes of repair.
  5. The RV is not used for any purpose.
  6. The RV shall not be used for storing materials of any kind other than the furnishings and personal items common to a RV.
  7. The RV is not elevated, blocked or stabilized in any manner other than with jacks designed for that purpose.

**SECTION 3.09 FENCES AND WALLS**

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- A. All Boundary line fences shall be entirely located upon the private property of the person, firm or corporation constructing, or causing the fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. Any gate in the fence shall swing open into the fence owner's property. No setback requirements shall apply.
- B. Fences in the Residential Districts shall not exceed six (6) feet in height in the side and rear yards and shall not exceed four (4) feet in height in the front yard and in the yard between the principle building and the lot line that abuts the shore of the lake or river.
- C. Fences in the Commercial and Manufacturing Districts shall not exceed eight (8) feet in height except security fences, which shall not exceed twelve (12) feet in height including barbed wire toppings. No barbed wire shall be located less than 6' above ground level.
- D. No fences shall be constructed within road rights-of way or utility easements.
- E. No fence shall be permitted to encroach upon a public right-of-way, such as a street or alley.
- F. Hedges or living fences shall be maintained so as not to encroach upon neighboring properties, sidewalks, right-of-ways or hinder the vision of a vehicle driver.
- G. Materials: For all fences and walls erected after the effective date of this Ordinance, the finished face of such fence or wall shall face outside the property, with any visible posts or supports being located inside of the fence or wall.
- H. The owner of a fence or visual screen, consisting of materials requiring painting, staining or other significant periodic maintenance, shall be responsible for all maintenance of the fence.
- I. Clear Vision Areas: Clear vision areas shall be maintained at all intersections of public roads, streets, alleys and driveways.
- J. No fence shall be approved which constitutes a fire hazard either itself or in connection with the existing structures in the vicinity, nor which will interfere with access in the case of a fire or emergency, or will constitute a hazard to street traffic or to pedestrians.
- K. All fences require a Zoning Permit, except living fences.

**SECTION 3.10 OUTDOOR LIGHTING**

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- A. All outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent properties and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than twenty (20) feet in height.
- B. The Planning Commission may permit taller or require shorter fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or size of light fixtures; not adversely impact neighboring properties; and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures.

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Site lighting shall not exceed twenty (20) foot candles as measured three (3) feet above the ground surface, directly under the fixture.

- C. Outdoor low-voltage lighting, typically used for residential landscape or accent lighting shall be excluded from these regulations.

### **SECTION 3.11 SIGNS**

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The purpose of this section is to preserve the desirable character and personality of the Village of Bellaire, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Village recognizes the right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this ordinance.



A. Sign Regulations Matrix – cont’d

Sign Regulations		Zoning Districts													
		Commercial					Residential								
		CBD	VC	C	M	R-1	R-2	R-3	CR						
		Central Business District	Village Commons	Commercial	Manufacturing	Single Family Residential	Multiple Family Res.	High Density Single Family	Conservation Reserve						
C. CHANGEABLE MESSAGE SIGN- cont’d	3.	Height: Maximum in feet	10	10	10	10	10								
	4.	Setback Requirements (for sign and supporting structure)	Meet District Setback Stds	Min 10' from Front lot line, and NOT in Right of Way. <sup>c</sup>					NA	NA	NA	NA	NA		
	5.	Approval Requirements	ZA or PC, Zoning Permit												
D. TEMPORARY SIGNS <sup>c</sup>	1.	Number: Total allowed (all types) <sup>c, e</sup>	4 <sup>d</sup>	4 <sup>d</sup>	4	4	4	6	6	6	6	6	6		
	2.	Total Area: Total Square Footage of all Temporary Signs <sup>e</sup>	24	24	24	24	24	24	24	24	24	24	24	24	24
	3.	Setback Requirements:	Meet District Setback Stds	Min 10' from Front lot line, and NOT in Right of Way <sup>c</sup>											
	4.	Approval Requirements	Registration required.												

Notes:

- a. Street Address/Identification signs not exceeding the district size limit or number shall be allowed in addition to the number of signs and total sign area permitted for Permanent, Changeable copy and Temporary signs
- b. Businesses with entrances on more than one street and/or lane, shall be allowed one additional permanent sign for the side or rear entrance, of the size allowed for the Zoning District.
- c. Signs shall not be located in Road Right of Way, except with specific written permission of the governing Road Agency.
- d. Portable sandwich board type signs, shall be removed nightly and shall not impede the pedestrian walkway. Signs temporarily affixed to the interior of a window shall not be included for the purpose of the number and total area allowed for temporary signs.
- e. Signs temporarily affixed to the interior of the window shall not be included for the purpose of calculating the number and total area allowed for temporary signs.

In addition to the specific regulations specified by zoning districts stated in **Section 3.11.A** Sign Regulations by District, the following conditions shall apply to all signs and billboards erected in any use district:

B. General Sign Regulations

1. No sign, except specifically identified in **Section 3.11.A** above, shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by a Planning Commission (PC) approved site plan. After the ZA or PC approval, the required zoning permit shall be issued.
2. No signs or billboards shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
3. Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of persons on the adjacent highway, streets or properties. The projected light shall not emanate beyond the sign and unnecessarily illuminate the night sky, in compliance with **Section 3.10** of this Ordinance. Illuminated signs shall not be of the flashing, moving or intermittent type.
4. All directional signs located along the highway, to direct traffic to a business off the highway, must conform to the standards used by the Michigan Department of Transportation for such signs. Wherever possible such directional signs will be clustered.
5. Both sides of any freestanding or projecting sign may be used for display.
6. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet. However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign is responsible for receiving the approval of the proper governmental agency having jurisdiction over such right-of-way (county or state).
7. Roof position signs or billboards are specifically prohibited.
8. In no case shall a sign or signs exceed a total of ten percent (10%) of the building face to which they are attached, except signs temporarily affixed to the interior of a window shall not count toward the 10%.
9. Portable signs shall be prohibited, except where allowed for in this section or such signs have been approved by the Planning Commission as meeting a special purpose and/or being appropriate for the particular need. Sandwich board portable signs shall not exceed twenty four (24) inches in width by forty eight (48) inches in height, and shall be removed nightly.
10. Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are prohibited, except when used temporarily for period not to exceed fifteen (15) days, and no zoning permit or registration is required.
11. Banners across M-88: the temporary location of banners across M-88 at Village defined location(s) for Village Council approved events shall be permitted with Village council approval for a defined time period and subject to scheduling with the Village Department of Public Works.

12. The use of any legally existing outdoor business or informational sign erected and in use at the date this Zoning Ordinance is enacted may be continued. Such signs shall be designated as “Nonconforming Signs”. The maintenance, reconstruction, alteration, discontinuation, and change in the nonconforming nature of a Nonconforming Sign shall be governed by **Article 5** – Nonconformities of this ordinance the same as for other nonconforming uses under this ordinance.
13. Community wayfinding signs sponsored by a governmental authority or commission shall be allowed in all zoning districts, subject to the Village Council approval, provided such signs do not specifically identify any business by name.

### **SECTION 3.12 ANTENNA CO-LOCATION ON AN EXISTING TOWER OR STRUCTURE**

- A. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower’s structural integrity.
- B. The installation and/or operation of the above mentioned, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.
- C. No antenna or similar sending and receiving devices appended to the tower or structure shall increase the overall height of the tower or structure by more than twenty (20) feet, or 10% of the tower’s original height, whichever is greater, but in no event shall the height exceed the limitations specified in the Antrim County Airport Zoning Ordinance.
- D. The Zoning Administrator shall within 14 days of receiving the application determine whether the application is administratively complete and the required fee has been paid. If the Zoning Administrator fails to make this determination within the 14-day period, the application shall be deemed administratively complete.
- E. If, before the expiration of the 14-day period, the Zoning Administrator notifies the Applicant that the application is not administratively complete, or notifies the Applicant that the required fee has not been paid, specifying the amount due, the 14-day period is tolled until the Applicant rectifies the specified deficiencies.

### **SECTION 3.13 NON-COMMERCIAL WIND TURBINE GENERATORS**

Non-commercial wind turbine generators (WTG) and anemometer towers erected prior to a non-commercial wind turbine generator may be located in any district, provided the WTG or anemometer tower is setback from the property line a distance at least equal to the total height of the WTG or anemometer tower. The minimum height for the blade clearance from the ground shall be fourteen (14) feet.

### **SECTION 3.14 VEHICULAR PARKING AND ACCESS**

- A. **Off-Street Parking, Loading and Unloading Requirements and Standards**  
Off-street parking space with adequate access to all spaces shall be provided and maintained in all zoning districts (except in the CBD and on Bridge Street between Antrim and 4<sup>th</sup> Street) at the time of erection or alteration of any main building, that is adequate for parking, loading and unloading of vehicles according to the requirements

listed below, and including at least the minimum number of spaces required by the table in **Section 3.14C** Minimum Number of Parking Spaces per Unit.

B. Parking Requirements

1. Parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
2. Residential off-street parking space shall consist of a parking strip, driveway, garage or any combination located on the premises they are intended to serve. In a residential district, a licensed commercial vehicle may be parked provided it is owned or operated by someone residing on the premises.
3. Adequate space should be provided in all parking, loading and unloading areas to facilitate turning around of vehicles so that the entry on to streets and county roads may be in a forward manner and not by backing. Furthermore, in parking, loading and unloading areas where internal movement of vehicles is necessary, adequate aisle space shall be provided to insure vehicular and pedestrian safety.
4. A minimum of one hundred sixty-two (162) square feet shall comprise one (1) vehicular parking space or nine (9) feet by eighteen (18) feet.
5. Computation of floor area of buildings shall be exclusive of basements, cellars or attics where these areas are used for storage or utilities; calculated using the outside perimeter of the building. In the case of a single story structure, the floor area may be reduced by ten (10) percent to accommodate storage or utilities.
6. The Village Planning Commission shall determine the required parking spaces needed based on the guidelines in **Section 3.14C** Minimum Number of Parking Spaces per Unit and the materials presented during the site plan review and with consideration to the uniqueness of the business.
7. Adequate area must be provided for snow piling and on-site drainage. Handicap parking must be provided as required by State and Federal regulations. Designation of parking area must be clearly identifiable for use by the public.
8. Every building or structure engaged in loading and unloading goods shall provide space (except the east side of Bridge Street in the 200 block) on the premises in addition to that required for parking, for the loading, unloading and standing of all vehicles to avoid undue interference with public use of the highway, excluding alleys.

C. Minimum Recommended Number of Parking Spaces per Unit

Business Type	Number of Parking Spaces Need
Banks, business offices, studios and professional offices of architects, lawyers, and similar professions	Three (3) parking spaces; plus one (1) additional parking space for each three hundred (300) square feet of floor area.
Barber shops and beauty parlors	Two (2) parking spaces for each operator chair; plus one (1) parking space for each two (2) employees
Bowling establishments	Five (5) parking spaces for each bowling lane
Theaters and auditoriums except schools	One (1) parking space for each four (4) seats; plus one (1) parking space for each two (2) employees.
Community center, library, museum or art center	One (1) parking space for each two hundred (200) square feet of floor area
Dwellings	Two (2) parking spaces for each dwelling unit.
Medical clinics and similar establishments	One (1) parking space for each bed and/or examining room; plus one (1) parking space for each two (2) employees on maximum working shift; plus one (1) parking space for each two hundred (200) square feet of floor area.
Laundromats	One (1) parking space for each two (2) washing machines and/or dry cleaning machines.
Hotels, motels, tourist homestead lodging house	One (1) parking space for each sleeping room; plus one (1) parking space for each two (2) employees on the maximum working shift.
Manufacturing or industrial establishments, warehouse or similar establishment	Two (2) parking spaces for each two (2) employees on maximum working shift; plus space to accommodate all vehicles used in connection with the operations of the establishment.
Plumbing, printing and similar service shops and businesses	One (1) parking space for each employee; plus one (1) parking space for each three hundred (300) square feet of floor area
Private clubs, night club, dance halls and similar recreational establishments	One (1) parking space for each one hundred (100) square feet of floor area
Professional offices of doctors, dentists and similar professions	One (1) parking space for each one hundred (100) square feet of floor area or a minimum of four (4) parking spaces, whichever is greater.
Restaurants, and similar establishments for sale and service of food and drink, except liquor and drive-ins	One (1) parking space for each one hundred (100) square feet of floor space.
Retail stores	One (1) parking space for each one hundred fifty (150) square feet of floor area.

**SECTION 3.15 WATER SUPPLY & SEWAGE DISPOSAL FACILITIES**

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All water supply and sanitary sewage shall be provided in accordance applicable Village of Bellaire Ordinances.

**SECTION 3.16 STORM WATER RETENTION**

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- A. The property owner of any property which is changed or developed in any manner, shall be required to manage the stormwater to utilize existing storm sewers where available, or in such a manner that the post-development runoff shall not increase the quantity, rate or velocity of stormwater leaving the property above the pre-development or natural conditions levels and shall not cause erosion. In areas not served by storm sewers, stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Antrim County Stormwater and Soil Erosion Control Program. In the case of conflicting regulations, between the Village of Bellaire Zoning Ordinance and the Antrim County Stormwater and Erosion Control Program, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state trunkline ditch, i.e. M-88.
- B. All stormwater management plans shall be designed to handle one (1), one hundred year, 24 hour storm event. Measures shall be implemented to capture any oil and grease, so as not to release such pollutants with the stormwater.

**SECTION 3.17 HAZARDOUS SUBSTANCES**

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All business or industries that store, use or generate hazardous substances, as defined in this Ordinance, shall meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

**SECTION 3.18 WATERFRONT GREENBELT**

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To preserve natural resources, water quality and community scenic and recreational values, a waterfront greenbelt shall be established and maintained on all waterfront lots. The waterfront greenbelt shall include all land located within twenty-five (25) feet of the ordinary high water mark of the lake, river, or stream abutting the lot. Public walkways may be located within ten (10) feet of the ordinary high water mark. If public walkways are located in a waterfront greenbelt area that is considered a wetland, the walkway shall be elevated. Any development within the waterfront greenbelt shall comply with all of the following requirements:

- A. No structures, or parking area(s), shall be allowed within the waterfront greenbelt, except for docking facilities (which must be parallel and attached to the shoreline), and pathways meeting the requirements of this section necessary for reasonable access to the water.

- B. A natural vegetation strip shall be maintained in the waterfront greenbelt within ten (10) feet of the ordinary high water mark of the lake, river, or stream abutting the lot. Existing vegetation within the natural vegetation strip shall be preserved and maintained, except as necessary to allow construction of those structures permitted within the waterfront greenbelt and except to provide a filtered view of the water from the principal structure as permitted in this section. A mowed lawn to the water's edge is prohibited in the natural vegetation strip.
- C. Dead, diseased, unsafe or fallen trees, shrubs, and noxious plants, including poison Ivy, poison sumac, poison oak, and other plants regarded as a common nuisance in Section 2, Public Act 359 of 1941, as amended, being MCL 247.62, may be removed from the natural vegetation strip.
- D. If a structure is sited on the waterfront lot, an area of the natural vegetation strip equal to no more than 1½ times the width of the principal structure may be selectively pruned to provide a filtered view of the water. Prior to any pruning, the property owner shall consult with the zoning administrator to establish the acceptable amount of pruning allowed. No clear cutting within the natural vegetation strip shall be permitted.
- E. If the natural vegetation has been removed in violation of this section or if replacement of natural vegetation is necessary due to diseased or other factors, then that vegetation shall be replaced with native trees, shrubbery, or other vegetation that is effective in retarding runoff, preventing erosion, and preserving the natural beauty of the area.
- F. The natural vegetation strip shall be fenced with silt fence and the construction barrier fencing prior to grading or other on-site construction activities. This protective fencing within the waterfront greenbelt area, shall be maintained until the completion of site construction activity
- G. No unsightly, offensive, or potentially polluting material, including but not limited to, compost piles, lawn clippings, leaves, garbage, trash, refuse, manures/fertilizers, and animal pens shall be used, stored, or located within the waterfront greenbelt area.
- H. No breakwalls, seawalls, bulkheads, broken concrete or other rubble, rock riprap, or other shoreline hardening material shall be located within the natural vegetation strip.
- I. All pathway(s) shall meander down to the ordinary high water mark in a manner that protects the soil and vegetation from erosion.
- J. Pathways may be constructed within the waterfront greenbelt area and within the native vegetation strip if all of the following requirements are met:
- (i) The pathway shall be constructed of permeable material that does not allow surface water to drain directly into the lake, river, or stream.
  - (ii) A maximum of two (2) pathways are permitted per lot. The width of each pathway shall not exceed six feet (6).

### **SECTION 3.19 STEEP SLOPES**

The development on any lot with a slope of 18% or greater, as determined by a topographic survey, shall:

- A. Maintain the natural vegetation on the lot wherever possible. If removal of vegetation is required, the owner shall re-establish vegetation of a compatible plant material to pre-disturbance densities.

- B. All exposed slopes and graded areas of the lot shall be landscaped with groundcover, shrubs and trees consisting of perennial native species.
- C. Existing mature trees shall be incorporated into the design of the development unless documentation is provided showing it is not feasible, notwithstanding costs.
- D. Natural drainage courses on the lot shall be protected from grading activity.
- E. Groundwater flow patterns on the lot shall not be interrupted.
- F. Structures shall be clustered on the lot as much as reasonably possible to retain surrounding tree cover and to minimize changes in topography.
- G. All structures shall be setback from the ridgeline at least twenty-five (25) feet.
- H. No clearing of vegetation shall occur on the ridgeline of the lot, except as reasonably required for access to the lot.
- I. Access drives and/or streets shall be aligned with the natural contour of the land in order to minimize cutting and filling.
- J. Drainage of stormwater from access drives, streets, and rooftops shall be designed to preclude concentrated discharges at any one location on the top of a steep slope and to preclude direct discharge of stormwater into a water body without filtration provided by a filtration bed, rain garden, infiltration basin, and/or detention basin to be located on the upslope side of the lot.
- K. All utilities shall be underground (other than if doing so would cause documented environmental damage) and shall be designed, installed and maintained so as not to create soil erosion hazards.
- L. Owner shall provide certification by a licensed professional that the steep slope on the lot may be safely developed, shall preserve the natural watershed and prevent soil erosion.

### **SECTION 3.20 LANDSCAPE BUFFER**

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- A. A landscape buffer, as defined herein, shall be required for any commercial or manufacturing use that abuts a residential use on either the side yard or rear yard, the proposed plant sizes, spacing and species shall be reviewed during the site plan approval process. In all instances, this may be provided as part of the side or rear requirements. The landscape buffer may be waived by the Planning Commission if it were found that there would be no adverse effect upon the neighboring property resulting from the waiver or omission. Open space may also be required as a condition of site plan approval.
- B. A landscape buffer shall be required for new residential, commercial, or manufacturing construction that abuts the Conservation Reserve District.

### **SECTION 3.21 BUILDING SPACING**

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Except in the CBD and as provided in **Section 3.04.F.**, a building, whether principal or accessory, shall be located no closer than ten (10) feet to any existing building. No addition to a building shall be permitted that would result in a reduction of building separation to less than ten (10) feet.

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**SECTION 3.22 YARD/GARAGE SALES**

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A yard or garage sales shall not occur more than twice per calendar year on any property. No yard or garage sale shall last more than four (4) consecutive days, and must be at least five (5) days apart. The owner of the property shall be the responsible party.

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**SECTION 3.23 OUTDOOR DISPLAY OF MERCHANDISE**

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- A. The outdoor display of goods for sale shall be allowed only as an accessory use to the main use on the same lot or tract of land.
- B. Outside display of goods for sale incidental to a retail use, plant nursery, sales and rental of motor vehicles, mobile homes, boats or trailers, or the outside display of automobile-related merchandise for sale incidental to a gasoline filling station shall not be required to be screened.
- C. Displays shall conform with all of the following requirements:
1. Where outside display is located adjacent to a building, an unoccupied area of not less than three (3) feet in width shall be provided for pedestrian access between any outside display and vehicle overhang areas of any adjacent parking lot.
  2. In no instance shall outside display of merchandise be located within, nor encroach upon, a fire lane, maneuvering aisle, or a parking space necessary to meet the minimum parking requirements of the other use(s) of the lot or parcel.
  3. Outside display shall be situated so as not to create a visibility obstruction to moving vehicles within a parking lot. Where outside display is located at the intersection of two (2) or more maneuvering aisles within a parking lot, the displayed merchandise shall not exceed 30 inches in height above the grade level of the parking lot.
  4. Outdoor display items may be located in the side and rear setbacks, but at least five feet (5') from the property line, except if the subject property is adjacent to residential use or district, then the applicable district setback shall remain in effect.
  5. Outdoor display items may be located in the front yard setbacks, but at least ten feet (10') from the front property line.
  6. All site lighting shall comply with **Section 3.10**. Featured "display, directional lighting" of items must be turned off during the hours of 11:00 PM and 7:00 AM. Example: A new car on display outside a dealership, with special lighting to bring attention to the new design. This type of lighting would be considered "display or directional lighting" and should be directed to minimize light trespass on the neighboring property. This does not include security lighting.
  7. Outside equipment must be displayed in rows with at least 2 feet between display items.
- D. In all districts where the outside display of goods is not permitted by right, a property owner may apply for a temporary permit for 90 days, renewable once during the calendar year.

**SECTION 3.24 MEDICAL USE OF MARIHUANA OR MARIJUANA**

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- A. Intent and Purpose. With the enactment of the Michigan Medical Marijuana Act (hereinafter referred to as the “MMMA”), Initiated Law 1 of 2008, MCL 333.26423, *et seq*, and its administrative rules, R 333.101, *et seq*, the Village of Bellaire Zoning Ordinance has not kept pace with this recent legislation. As a result, the purpose of this section is to implement land use regulations to address the medical use of marijuana as authorized by the MMMA.
- B. Regulations for Qualifying Patients. The medical use of marijuana by a qualifying patient in that qualifying patient’s dwelling is hereby recognized as an accessory use to the principal residential use of the dwelling and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
1. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Michigan Department of Community Health or successor agency under the provisions of the MMMA.
  2. All marijuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the qualifying patient.
  3. If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
- C. Regulations for Primary Caregivers. The medical use of marijuana by a primary caregiver is hereby authorized as a home occupation by right in any zoning district, provided that all of the following regulations are met:
1. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the Michigan Department of Community Health under the provisions of the MMMA.
  2. The primary caregiver must obtain a zoning permit under **Section 10.02** of this Ordinance.
  3. All marijuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the primary caregiver.
  4. If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
  5. No more than one (1) primary caregiver shall be permitted to function as a home occupation servicing qualifying patients within a dwelling.
  6. No more than two (2) qualifying patients may be present at any one time at a dwelling in which a primary caregiver is functioning as a home occupation.
  7. Qualifying patient visits to a dwelling in which a primary caregiver is functioning as a home occupation shall be restricted to between the hours of 7 a.m. and 8 p.m.
  8. No qualifying patients under the age of 18 (eighteen) shall be permitted at any

time at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his/her parent or guardian.

9. No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo.
  10. No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling.
  11. A dwelling in which a primary caregiver is functioning as a home occupation shall display indoors and in a manner legible and visible to his/her qualifying patients:
    - a. A notice that qualifying patients under the age of eighteen (18) are not allowed at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his/her parent or guardian, and
    - b. A notice that no dispensing or consumption of marijuana for medical use shall occur at a dwelling in which a primary caregiver is functioning as a home occupation.
  12. A dwelling in which a primary caregiver is functioning as a home occupation shall not have any outdoor signage that would indicate the nature of the primary caregiver services being conducted in the dwelling.
  13. A dwelling in which a primary caregiver is functioning as a home occupation shall not be located within 1,000 feet of any public or private school, having a curriculum including kindergarten through twelve grade and its accessory structures.
  14. A dwelling in which a primary caregiver is functioning as a home occupation shall not be located within 500 feet of a lot on which any of the following uses are located:
    - a. Any church or place of worship and its accessory structures.
    - b. Any public facility, such as parks and playgrounds.
  15. The portion of a dwelling in which a primary caregiver is functioning as a home occupation, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring meeting the applicable requirements of the electrical code in effect in the village.
- D. Relationship to Federal Law. Nothing within this section is intended to grant nor shall it be construed as granting immunity from federal law.

**SECTION 3.25 RESIDENTIAL DEVELOPMENT**

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In order to preserve the character of the Village of Bellaire and the safety of the residents, residential development projects in all districts shall be subject to the following review process:

All proposed land development projects that involve condominiums, site condominiums, subdivisions, and non-platted land divisions which will result in the establishment four (4) or more condominium units, site condominium units, lots, or parcels within a ten (10) year period of time are subject to site plan review per Article 6, unless developed as a Planned Unit Development, per **Section 8.11**. For purposes of this subsection, condominium units, site condominium units, lots, or parcels that are created for common areas such as roads, pathways, or open spaces and are designated as such by appropriate condominium documents, plat dedications, or deed restrictions, shall not be counted toward the maximum number of site condominium units, lots, or parcels.