

### SECTION 8.01 PURPOSE

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Those Permitted uses and uses allowed by Special Use Permit enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements. The uses listed in this article are only allowed as listed in the **Article 4: Zoning Districts and Regulations**.

### SECTION 8.02 ACCESSORY DWELLING

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Accessory dwelling as defined in Article II, shall comply with the following regulations:

- A. Residence and Incidental Use: The accessory dwelling shall be clearly incidental to the principal residence or commercial use on the site. Accordingly, the following conditions shall be met:
  - 1. The property must be owner-occupied, i.e. either the principal residence, or commercial use or accessory dwelling must be owner occupied (or owner managed in the case of a commercial use).
  - 2. Only one (1) such accessory dwelling shall be permitted on each parcel.
  - 3. The total floor area of the accessory dwelling shall not exceed eight hundred (800) square feet.
  - 4. The accessory dwelling shall be part of a principal or accessory structure, but shall not solely constitute a separate building.
- B. Compatibility with Surrounding Land Use: The design of the accessory dwelling shall not detract from the character of the area and appearances of the principal residence or commercial structure.
- C. Parking and Access: In addition to required parking for the principal residence, or commercial use, one additional parking space shall be provided for the accessory dwelling.

### SECTION 8.03 BED & BREAKFAST FACILITY

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Bed and breakfast establishments shall be subject to the following regulations:

- A. Principal Residence: The operator shall live in an on-site dwelling unit when the bed and breakfast facility is in operation.
- B. Maximum Number of Units: No more than eight (8) bed and breakfast sleeping rooms shall be established.
- C. Kitchen Facilities: The bed and breakfast facility shall have centralized kitchen facilities. No kitchen facilities shall be located in the individual rooms.
- D. Building Requirements: A building used for a bed and breakfast establishment shall comply with the following minimum requirements:
  - 1. There shall be at least two (2) exits to the outdoors.
  - 2. Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.

- E. Parking: An off-street parking spot shall be provided for bed and breakfast unit, in accordance with this Ordinance. Off-street parking in the front yard is prohibited.
- F. Other Regulations: The Bed & Breakfast facility shall meet any applicable regulations, including but not limited to District Health Department and Building Code requirements.

#### **SECTION 8.04 BUSINESSES WITH DRIVE-THROUGH FACILITIES**

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- A. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that waiting traffic does not extend into the public right-of-way. The stacking spaces shall be located so as not to interfere with general site circulation and egress from the property by vehicles not using the drive-through facility.
- B. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent, which shall effectively screen glare from headlights year-round.
- C. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

#### **SECTION 8.05 GASOLINE / SERVICE STATION**

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##### **A. Standards**

1. The minimum lot area shall be twenty thousand (20,000) square feet, and so arranged that ample space is available for motor vehicles, which are required to wait for services.
2. Automobile service stations shall not be located within five hundred (500) feet of any school.
3. Pump islands shall be a minimum of twenty-five (25) feet from any public right-of-way or lot line.
4. All major repair, lubrication and service work shall be done within an enclosed building.
5. Repair vehicles or vehicles used for parts only, must be moved off the lot or stored in an enclosed building within 30 days of arrival.
6. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a solid wall or fence (see **Section 3.09**).
7. The outside storage of automobiles, trucks or trailers for a period in excess of seventy-two (72) hours, or the sale or rental thereof, is expressly prohibited without specific approval as part of the special use approval.
8. Vacuuming activities shall be at least fifty (50) feet from any adjoining property line.
9. All washing activities must be within a building, with the exception for special events registered with the Zoning Administrator. No vehicle wash establishment shall permit patrons to extend lines of vehicles off the premises.
9. Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare onto any property used or zoned for residential purposes, and shall comply with the provisions of **Section 3.10**.
10. Automobile service and gasoline stations shall comply with sign provisions of this

Ordinance, (Section 3.11).

**B. Access Drives**

1. No more than two (2) curb cuts shall be permitted directly from any State trunkline or County Road or more than one (1) curb cut from any other public street to provide ingress and egress.
2. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that tend to create traffic hazards on the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the street right-of-way) or from adjacent residential districts and not within ten (10) feet of any adjoining property line.
3. A minimum dimension of twenty (20) feet shall separate any two curb cuts giving access to a single street.

**SECTION 8.06 JUNK AND SALVAGE MATERIAL STORAGE**

- A. Junk Storage: Junk shall be stored, placed or otherwise located only within a completely enclosed building.
- B. Salvage Material Storage: Any open storage yards or areas used for the storage of salvage materials shall be entirely enclosed by an obscuring wall or fence at least eight (8) foot high (see Section 3.09), or a hedge of a minimum height of eight feet. No salvage yard facility (or outside junk storage yard or area) shall be nearer to the exterior boundary of the Manufacturing District than one hundred (100) feet.

**SECTION 8.07 KENNELS AND VETERINARY CLINICS/HOSPITALS**

- A. All kennels and veterinary clinics/animal hospitals shall be operated in conformance with County and State regulations.
- B. All kennels shall be on sites of at least five (5) acres.
- C. Animals shall be confined in a fenced area to preclude their approaching nearer than five hundred (500) feet to any dwelling on adjacent premises or nearer than fifty (50) feet from the property line, whichever is greater.
- D. Any fenced areas shall be screened from adjacent properties and/or streets with an opaque fence or a vegetated evergreen buffer at least five (5) feet in height.
- E. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- F. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8a.m. All principal use activities shall occur within an enclosed main building.
- G. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time.

**SECTION 8.08 MOBILE HOME PARKS**

Mobile Home Parks shall be subject to the following conditions:

- A. Mobile Home Parks shall be developed and licensed pursuant to the requirements of the

Michigan Manufactured Housing Commission, Public Act 96 of 1987 and any rules promulgated pursuant to this Act, as amended. This includes but is not necessarily limited to compliance with Michigan Manufactured Housing Commission regulations concerning internal streets, parking requirements, fencing, screening, unit spacing and recreational and open spaces.

- B. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require all mobile homes in mobile home parks to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require the underside or chassis of all mobile homes in mobile home parks to be fully skirted or enclosed with durable, weather-resistant materials, as specified by the manufacturer or as specifically manufactured for use as home skirting, and all such skirting shall be maintained in place as designed.

### **SECTION 8.09 MOBILE HOMES AND TRAILERS, OTHER USES**

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Mobile homes, travel trailers and motor homes may be used as follows:

- A. Mobile homes may be used as temporary dwellings until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued (per **Section 3.05**), subject to the conditions of this Ordinance. The temporary dwelling shall be included on the Building Permit, and maintained as long as diligent progress is being made on the main property use, and shall be removed, or stored in compliance with this Zoning Ordinance, upon issuance of an Occupancy Permit for the main use.
- B. Mobile homes may be used as a temporary contractor's office and/or equipment shed in any district when in connection with a construction project and authorized by the Zoning Administrator.
- C. The unoccupied storage of a motor home or travel trailer, not a mobile home, on any residential property by the owner thereof shall be allowable as a permitted accessory use of the premises where there is a main use, provided such storage is confined to the rear yard when the rear yard is accessible. If the rear yard is not accessible, then storage in the side yard is permissible, if no nuisances, hazards, or blocking of views is created for the adjoining property.

### **SECTION 8.10 OUTDOOR DISPLAY AND STORAGE**

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- A. Display or storage of goods and materials on private property shall not occur in the required side or rear yard setback areas, unless approved by the Planning Commission based on adequate screening with a fence of 90% opacity or greater, or stored in a manner so as not to impact the neighboring property.
- B. All outdoor storage yards shall be paved or provide a durable dust-free surface approved by the Planning Commission.
- C. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies wetlands and drainage ways.

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**SECTION 8.11 PLANNED UNIT DEVELOPMENTS**

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- A. **Purpose:** The purpose of the Planned Unit Development is to allow design and use flexibility on a given site while at the same time protecting present and future residents and public facilities from the adverse effects of unplanned or unregulated development. This approach allows the applicant to utilize innovative designs and methods to control the effects of development rather than having rigid numerical zoning standards dictate design parameters. The burden of proving a Planned Unit Development is within the parameters and intent of this Ordinance is completely upon the applicant. The Village of Bellaire Planning Commission is to be the judge of whether or not the design contains sufficient safeguards as to make the effects of the development compatible with the intent of this Ordinance. It is the expressed intent of this section to allow such items as setbacks, yards, parking spaces, and type of dwelling unit and use to be regulated on an overall impact or gross development basis rather than individually for each lot, use, or structure. The purpose of this section ideally allows:
1. Flexibility in the regulation of land development.
  2. Encourage innovation in land use in variety and design, layout, and type of structures constructed.
  3. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
  4. To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
  5. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Village.
  6. In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.
- B. **Eligibility and Area Requirements:** Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following requirements:
1. **Permitted Uses:** Planned Unit Developments shall be permitted by Zoning District subject to Special Use Permit approval, as listed in **Section 4.02**. The uses for a given PUD shall be limited to the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. In Residential Zoning Districts (R-1, R-2 and R-3), institutional and commercial uses may also be permitted upon the Planning Commission determining the proposed uses are compatible with the character of the PUD and the surrounding area, and provided the non-residential use does not exceed 20% of the PUD development area (i.e. gross land area less the protected open space). In the Commercial and Mixed Use Zoning Districts (VC, C, and CBD) additional institutional and commercial uses may also be permitted on a site specific basis upon the Planning Commission determining the proposed uses are compatible with the character of the PUD and the surrounding area, and documented in the findings of fact.
  2. **Perimeter Setbacks:** The setback maintained along the perimeter of the PUD shall

equal or exceed the required setback of the underlying zoning district, provided:

- a. Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than fifty (50) feet from any adjoining or abutting property, which is in a residential zoning district.
  - b. With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.
3. Minimum Project Parcel Size: The minimum size of a parcel used for a PUD shall be of sufficient size to contain on the site, both physically and aesthetically all elements of the project and limit the effects of the development on the adjacent properties, as confirmed during the Planning Commission review.
4. Other Dimensional Regulations: To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, permit modification of the dimensional requirements, as required by the underlying zoning district, including but not limited to minimum lot size, density, height and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the Village as a whole.

Any changes permitted by the Planning Commission shall be limited as follows:

- a. Residential density shall not be increased by more than thirty (30) percent of the underlying zoning district standard.
- b. Setbacks shall not be reduced by more than fifty (50) percent of the underlying zoning district requirements. Perimeter setbacks as required by the PUD regulations may not be reduced.
- c. Required parking shall not be reduced by more than sixty (60) percent of the parking normally required of the proposed use. In no case shall a single-family home; mobile or modular home, or other such detached single-family dwelling have less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.
- d. Height of any building and structure within a PUD project shall not exceed the height limit of the underlying zoning district, unless specifically authorized by the Planning Commission upon a finding that the proposed increase will not be detrimental to the public health, safety, or welfare of the PUD occupants, the area surrounding the PUD project site, and the Village as a whole; and the building height increase will not violate the Antrim County Airport Zoning Ordinance. This increase, however, shall not exceed fifty (50) percent of the underlying zoning district height limit. In authorizing an increase in height, the Planning Commission may require increased building setbacks and/or other conditions determined necessary to secure the public health, safety, or welfare and to ensure compatibility of the project with the surrounding area. In no case shall an increase in height be permitted if the increase will result in conditions beyond the service capability of the Village pursuant to emergency fire suppression and other emergency services
- e. Prior to approving a change in dimensional regulations, the planning commission may require the applicant to demonstrate through bona fide

documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the reduction will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the Village as a whole.

5. Open Space: A PUD project shall have open space of no less than twenty-five (25%) percent of the entire project area. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. Dedicated open space does not include parking lots, streets, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.
  6. Unified Control: The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
  7. Utilities:
    - a. The parcel on which the proposed PUD will be located shall be served by public water and sanitary facilities.
    - b. The PUD shall provide for underground installation of all utilities.
- C. **PUD Application Requirements**: An applicant seeking approval of a PUD shall submit a complete application in accordance with the procedures as specified in Article 7-Special Use Permits and accompanied by 1) a concept plan to show how the project elements can fit on the site and 2) a narrative statement describing:
1. The objectives of the proposed PUD and how they related to the intent of the Zoning Ordinance.
  2. The relationship of the proposed PUD to the Village of Bellaire Master Plan.
  3. Phases of development, if any, and the approximate time frame for the start and completion of each phase.
  4. Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
  5. Anticipated dates for the start and completion of the PUD construction.
  6. The location, type and size of areas to be dedicated for common open space.
- D. **Supplemental PUD Approval Standards**: The Planning Commission shall approve or approve with conditions an application for a PUD upon finding the proposed PUD complies with the Standards set forth in **Section 7.03** Standards for Granting a Special Use Permit and the following additional standards:
1. The PUD shall be designed to preserve public vistas and existing important natural, historical and architectural features of significance within the development.
  2. The PUD shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those

of abutting property and any linear trail or park systems intersecting or abutting such development.

3. The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to and within the development and adequate space for turning around at street ends shall be provided.
4. The PUD shall comply with the stormwater retention and management requirements of **Section 3.16**.
5. The PUD shall be designed such that the phases of the development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
6. The PUD shall meet the standards of other governmental agencies, where applicable.

### **SECTION 8.12 PUBLIC BUILDINGS, INSTITUTIONS AND PLACES OF WORSHIP**

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- A. Public buildings (except public works garages and storage yards), places of worship, public schools, private schools and their local supporting service uses, shall be permitted provided the arrangement of property uses shall minimize the impact on scenic views, and if feasible, the site design shall mitigate negative impacts related to building size, noise, lighting and traffic.
- B. Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special permit in residential districts.

### **SECTION 8.13 RESOURCE MINING AND EXTRACTION OPERATIONS**

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- A. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than 2,000 cubic yards of topsoil, sand, clay and gravel or similar material, or to use lands for filling within the Village without first submitting a site plan and procuring approval from the Planning Commission.
- B. A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued zoning permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- C. A separate site plan shall be required for each separate excavation and fill site, except as otherwise specified in this Ordinance. In addition to the site plan requirements listed in **Section 6.03**, a site plan prepared under this section shall also include:
  1. Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
  2. Full legal description of the premises where operations are proposed.
  3. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will

- cover.
4. Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
  5. Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
  6. Detailed documentation that no very serious consequences would result from the extraction of natural resources from the property based consideration of the following factors, as applicable:
    - a. The relationship of extraction and associated activities with existing land uses.
    - b. The impact on existing land uses in the vicinity of the property .
    - c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
    - d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
    - e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
    - f. The overall public interest in the extraction of the specific natural resources on the property.
  7. Such other information as may be reasonably required by the Planning Commission to base an opinion as to whether the site plan should be approved or not.
- D. The sand and gravel operations application shall provide information to confirm compliance with the following standards:
1. Hours of Operation: The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site Specific Hours of Operation for mining, processing and reclamation activities must be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:
    - a. Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
    - b. Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
    - c. Equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.
  2. Screening: Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the Planning Commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
  3. Dust, Debris: All processing equipment and activities and all storage areas shall be treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Any trucks hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or

falling out of the trucks.

4. Groundwater Impact: Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and volume of flow.
  5. Street Impact:
    - a. Extractive operations shall be managed and designed so as to have minimum negative impact on existing streets. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the Planning Commission.
    - b. Dust caused by truck traffic of the entrance drive to be treated as needed with dust suppression material.
  6. No Very Serious Consequences: Extractive operations shall be designed and managed so that no very serious consequences shall result from the mining operation, based on the standards set forth in *Silva V Ada Township, 416 Mich 153 (1982)*.
- E. Reclamation Plan. A reclamation plan, which shall include all information required by any State or federal agency having jurisdiction and which includes the following:
1. Description and location of each phase, number of acres included in each phase, estimated starting and termination dates for each phase and the amount of time that will be required to complete the entire reclamation operation. All areas shall be reclaimed progressively as the mining in that area is completed. Reclaimed areas shall be reasonably natural and inconspicuous, lacking in hazards and in a condition that the area can be reused for an allowable use in the district in which the site is located. All slopes and banks shall be graded to angles that do not exceed those found in the natural topography of the surrounding areas, and the banks shall be treated to prevent erosion.
  2. Provisions for grading, drainage (especially agricultural field tiles) revegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.
  3. Description of proposed future land uses.
  4. Description of plans for disposition of all structures, streets, drains or related facilities after cessation of the extractive operation.
  5. A plan for disposal or treatment of all harmful or toxic materials found in any formations penetrated by the extractive operation or produced during the processing of minerals on the site and of chemicals or materials used during the extractive, processing or reclamation operations.
  6. All information required as part of a reclamation plan that is required by state or federal law.

#### **SECTION 8.14 SEXUALLY ORIENTED BUSINESSES**

- A. **Purpose and Intent:** The purpose and intent of the Sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Village, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational

characteristics that cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of village residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by Village ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Village intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Village further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

**B. Standards:**

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand feet (1000') of any principal or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be established on a parcel that is within two hundred feet (200') of any parcel zoned R-1, R-2, and R-3.
3. No sexually oriented business shall be established on a parcel within two hundred feet (200') of any residence, park, school, child care organization, or place of worship. The distance between a proposed sexually oriented business and any residence, park, school, child care organization, place of worship, or other sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship, or other sexually oriented business.
4. The proposed use shall conform to all specific area, setback, frontage, height, bulk, density or other dimensional requirements of the zoning district in which it is located.
5. The proposed use must meet all applicable written and duly promulgated standards of the Village of Bellaire and of other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
6. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent streets.
7. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance relating to the regulation of signage, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
8. Entrances to the proposed sexually oriented business must be posted on both the

exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) “Persons under the age of 18 are not permitted to enter the premises”, and 2) “No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.”

9. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining streets or a neighboring property.
10. Hours of operation shall be limited to 8:00 AM to 12:00 AM, Monday through Saturday.
11. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
12. Any booth, room or cubicle available in any sexually oriented business, except an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
  - a. Is handicap accessible to the extent required by the Americans With Disabilities Act;
  - b. Is unobstructed by any door, lock or other entrance and exit control device;
  - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
  - d. Is illuminated by a light bulb of wattage of no less than 25 watts;
  - e. Has no holes or openings in any side or rear walls.

**C. Application and Appeal Processes:**

1. The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business. If the Planning Commission determines that the application is complete, it shall within sixty (60) days of said determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in compliance with the standards designated in **Section 7.03** and **Section 8.14.B(1-12)**. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for same within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.
2. Prompt judicial review of adverse determination: If the Planning Commission denies a special approval application for a sexually oriented business pursuant to the above paragraphs, then the applicant shall be entitled to prompt judicial review by submitting a written request to the Zoning Administrator. The Village shall within three (3) business days of receipt of such written notice do the following:
  - a. File a petition in the Circuit Court for the County of Antrim seeking a judicial determination with respect to the validity of such denial and, in conjunction therewith, apply for a preliminary and permanent injunction

restraining the applicant from operating the sexually oriented business in violation of the Village Zoning Ordinance;

- b. Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within five (5) business days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the Village shall be required to waive its application for preliminary injunction and shall join in such request.
- c. In the event that the applicant does not waive notice and/or does not request an early hearing on the Village's application for permanent injunction, it shall nevertheless be the duty of the Village to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules.
- d. The filing of written notice of intent to contest the Planning Commission's denial of a special approval shall not in any way affect the validity of such denial, but such denial shall be deemed invalid and the special approval application automatically approved if, within fifteen (15) business days of the filing of Village's petition, a show-cause hearing has not been scheduled.

#### **SECTION 8.15 STORAGE FACILITIES**

Storage uses as allowed in Commercial (C) and Manufacturing (M) zoning districts, including mini-storage, shall meet the following regulations:

- A. All proposed storage buildings nearest to the primary access street shall be located on the site approximately perpendicular to the street; landscape screening may be required by the Planning Commission per subparagraph 3 of this section.
- B. Proposed storage buildings shall be positioned to the rear of other approved non-storage or non-warehousing buildings, e.g., retail or office uses, or, the storage buildings shall be set back at least one hundred (100) feet from public street right-of-way lines.
- C. Effective year-round landscape screening is required to shield storage buildings from bordering public streets upon installation of proposed plant materials.
- D. Nothing in this section shall prohibit or inhibit storage space as a necessary accessory use to any principal commercial use of the property, and these standards do not apply to internal streets within a planned industrial or commercial park.
- E. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, shall be within an enclosed building or behind an obscuring wall or fence on those sides abutting any Residential District and on any yard abutting a public thoroughfare.

#### **SECTION 8.16 TELECOMMUNICATION TOWERS & ALTERNATIVE STRUCTURES**

- A. **Purpose and Intent:** The purpose and intent of this Section pertaining to wireless

telecommunications towers, structures and antennas is to establish general guidelines for the location of wireless telecommunication towers, alternative tower structures and antennas. The Village recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the Village. The Village also recognizes the need to protect the scenic beauty of the Village of Bellaire from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this ordinance seeks to:

1. Protect residential areas from potential adverse impact of towers and antennas;
2. Encourage the location of towers in nonresidential areas;
3. Minimize the total number of towers throughout the community;
4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
5. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
6. Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
7. Consider the public health and safety of telecommunication towers and alternative tower structures; and avoid potential damage to adjacent property from tower failure.

**B. Application Requirements:**

1. The following information shall be provided in support of an application to construct a wireless telecommunication tower:
  - a. Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse.
  - b. A map depicting the existing and known proposed location of wireless telecommunication facilities, including wireless telecommunication antenna attached to alternative tower structures, within 2.5 miles surrounding the Village of Bellaire as well as within the proposed service area radius.
  - c. The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.
  - d. A statement which indicates the applicant's intent to allow the co-location of other antenna, provided that the cost of modifying the existing tower is borne by the co-locating entity and reasonable compensation is paid by the co-locating entity.
2. The Planning Commission shall within 14 days of receiving the application determine whether the application is administratively complete and the required fee has been paid. If the Planning Commission fails to make this determination within the 14-day period, the application shall be deemed administratively complete.
3. If, before the expiration of the 14-day period, the Planning Commission notifies the Applicant that the application is not administratively complete, specifying the

information necessary to make the application 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.

4. The Planning Commission may delegate its review of the application to determine completeness to the Zoning Administrator.
- C. **Decision:** The Planning Commission shall approve or deny the application not more than 90 days after the application is administratively complete. If the Planning Commission fails to act within the 90-day period, the application shall be deemed approved and the Planning Commission shall be considered to have made any determination required for approval.
- D. **Evidentiary Requirements:** The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
1. No existing towers or alternative tower structures are located within the geographic area that meets applicant's engineering requirements.
  2. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
  3. Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna.
  5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable.
  6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  7. The applicant demonstrates that an alternative technology that does not require the use of towers or alternative tower structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system is unsuitable.
- E. **Setbacks:** The following setback requirements shall apply to all towers for which a special use permit is required.
1. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
  2. Guys and accessory buildings or structures must satisfy the minimum zoning district setback requirements.
- F. **Security fencing:** Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an

appropriate anti-climbing device.

- G. **Landscaping:** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required.
1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
  2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- H. **State or Federal Requirements:** The applicant must demonstrate that any proposed tower meets or exceeds current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- I. **Aesthetics:** Towers and antennas shall meet the following requirements:
1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  4. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power.
- J. **Lighting:** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. No strobe lights shall be allowed.
- K. **Compliance with Codes:** Antenna and metal towers shall be grounded for protection

against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.

- L. **Interference with Residential Reception:** Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
- M. **Signs:** No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower.
- N. **Spacing: Towers.** Towers shall be located no closer than one (1) mile from an existing telecommunication tower or alternative tower structure, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.
- O. **Spacing: Residences.** A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.
- P. **Removal of Abandoned Antennas and Towers:** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Village notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

#### **SECTION 8.17 TRANSPORTATION FREIGHT/ TRUCK TERMINALS**

- A. Minimum lot size shall be five (5) acres.
- B. The minimum setback for use and structures other than employee and customer parking shall be fifty (50) feet from the street right-of-way and thirty-five (35) feet from side or rear property lines.
- C. The lot location shall be such that at least one (1) property line abuts a paved primary street. The access driveways for all vehicles shall be directly from said thoroughfare.
- D. Access driveways shall be located at least fifty (50) feet from the right-of-way of nearest intersection of any street or any other driveway.
- E. Repair of vehicles shall be done within a totally enclosed building.
- F. The temporary storage of vehicle parts, inoperable vehicles and/or storage shall be within an enclosed building or screened from view by passersby or neighboring properties.
- G. Truck parking and staging areas shall be fenced and screened from the view of any

abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.

- H. A landscape buffer may be required along property lines.
- I. Lighting for parking areas or outdoor activity areas shall comply with the Outdoor Lighting regulations of **Section 3.10**.

### **SECTION 8.18 MOBILE FOOD VENDING**

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Mobile food vending use shall be allowable in the Village Commons, Central Business District, Manufacturing and Commercial zoning districts, per **Section 4.02**. Mobile food vending shall be permitted outside any street right-of way and only on private property (written consent of the property owner is required); except if specifically authorized by the Village of Bellaire as part of an approved special event.

A temporary land use permit shall be required for the location and use of a mobile food vending unit. Such a temporary land use permit shall be issued for a period not to exceed 90 days.

#### Mobile food vending requirements:

- A. Provide appropriate waste receptacles at the site for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of the mobile food vending units shall be collected and properly disposed of by the operator. Spills of food or food by-products shall be cleaned up and no dumping of gray water on the streets is allowed.
- B. No mobile food vendors shall make or cause to be made any unreasonable or excessive noise.
- C. Signage in compliance with **Section 3.11**, is only allowed on the mobile food vending unit. No separate freestanding signs are permitted. When extended, awnings for mobile food vending units shall have a minimum clearance of seven (7) feet between the ground and the lowest point of the awning or support structure.
- D. No flashing, blinking or strobe lights are allowed on mobile food vending unit or related signage when the unit is parked and engaged in serving customers. All lighting shall comply with **Section 3.10**.
- E. Mobile food vending units shall be located on the site to comply with the required zoning district setback requirements.
- F. No dining area shall be allowed within ten (10) feet of the mobile food vending unit, including but not limited to tables, chairs, booths, stools, benches and stand up counters.
- G. Mobile food vending units may use electrical power from the property being occupied or an adjacent property, but only when the property owner has provided written consent.
- H. Mobile food vending hours of operation shall be confined to: 8am-9pm, when located adjacent to a residential district or use; and all other locations shall confine operations to the hours of 8am-11pm.

**SECTION 8.19 COMMERCIAL WIND TURBINE GENERATORS**

- A. The Village of Bellaire is within a three (3) mile radius of the Antrim County Airport, consequently height limits are imposed by the Antrim County Airport Zoning Ordinance, thus most current commercial wind turbine generators (WTG) would violate the allowed height.
- B. Any commercial WTG that does not exceed the height limits allowed is subject to the special use permit review process and as part of the application shall be provide a letter from Antrim County specifying that the proposed WTG meets the requirements of the Antrim County Airport Zoning Ordinance.