

VILLAGE OF BELLAIRE ZONING ORDINANCE

ANTRIM COUNTY, MICHIGAN

**Adoption Date: February 6, 2008
Effective Date: February 26, 2008**

**Amended : July 6, 2011 by
Ordinance No. 03 of 2011
Amendments Effective: July 22, 2011**

PREFACE

The Village Council of the Village of Bellaire hereby adopts Articles I – XII, along with all maps, charts, and drafts, drawings, and diagrams, as the Village of Bellaire Zoning Ordinance.

ARTICLE I PURPOSE AND AUTHORITY

Section 1.0 - Purpose

It is the purpose of this Ordinance to regulate and restrict the location of trades and industries, the location of buildings designed for specified uses, and for such purposes, divide the Village of Bellaire into zoning districts. Within each district, regulations shall be imposed designating the allowed uses for buildings and structures and designating the trades and industries that are permitted, excluded, or subjected to special regulations. The designations shall be made in accordance with a plan designed to lessen the congestion on the public streets. To promote the public health, safety, and general welfare and shall be made with reasonable consideration given to the character of the district, its particular suitability for particular uses, the preservation of property values, and the general trend and character of building and population development.

It is the purpose and intent of the Sections of the Ordinance pertaining to the review of wetlands, steep slopes, stormwater and waterfront properties to preserve the water quality of Bellaire, vital to our quality of life and the economic development of the Village.

Section 1.1 - Authority

This Ordinance is enacted into law pursuant to Act 207, Public Acts of 1921, as amended.

Section 1.2 - Title

This ordinance shall be known as the Village of Bellaire Zoning Ordinance of 2008 and shall be referred to herein as “this Ordinance.”

**ARTICLE II
RULES APPLYING TO TEXT**

Section 2.0 - Rules Applying to Text

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

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The word “building” includes the word “structure”.
- F. A “building” or “structure” includes any part thereof.
- G. The words “used” or “occupied”, as applied to any land or buildings, shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied”.
- H. Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- I. The term “adjoining lots and parcels” is intended to include lots and parcels separated by highways, roads, streets or rivers.

Section 2.1 - Definitions

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

Accessory Building or Structure – A permanent, subordinate structure devoted to an accessory use and located on the same premises with a main structure. An accessory structure attached to a main structure shall be considered part of the main structure.

Accessory Signs – A subordinate sign for informational or directional purposes only that is located on the same lot as the principle sign (i.e. parking signs).

Accessory Use – A use subordinate to the main uses on a lot and used for purposes customarily incidental to those of the main use.

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

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

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

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

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

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours;
or

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

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

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

Alterations – Any change in construction or type of occupancy of a building; any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or any moving of a structure from one location to another in accordance with all approved field changes.

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

Animated or Moving Signs – A sign that uses movement, lighting, or special materials to depict action or create a special effect to imitate movement. This includes the signs with moving lettering such as LED signs.

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

Apartment – A room or suite of rooms, including bath and culinary accommodations, in a multiple family dwelling, intended or designed for use as a residence by a single family.

Arcade – A building or portion of a building thereof, whose principal use is for the placement and use of four (4) or more mechanical, electronic, video or other similar player-operated amusement devices are operated for gain or compensation for their owner or operator. This definition shall not be construed to include a sexually oriented business.

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

Assisted Living – A living arrangement in which people with special needs, especially seniors with disabilities, reside in a facility that provides help with everyday tasks such as bathing, dressing, and taking medication.

Automobile Service Station – A structure or structures and space combined, used solely for servicing motor vehicles with the usual operating commodities such as gasoline, fuel oil, grease, water, batteries, tires and other minor accessories, or services such as washing, waxing and lubricating and in connection with which there is no repair or refinishing of motor vehicles, except that the repair of tires, lights, charging of batteries or engine repairs and adjustments when conducted within an enclosed building shall not be excluded.

Awning – A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements. Awnings must be built to the standards of the Antrim County Building Department.

Awning Sign – A sign painted on, printed on, incorporated in, or attached flat against the surface of an awning.

Banner, Flag, or Pennant – Any cloth, bunting, plastic, paper, or similar non-rigid material used for advertising purposes attached to any structure, pole, line, framing, or vehicle, not including the official flags of the United States, the State of Michigan, and other states of the nation, counties, municipalities, official flags of foreign nations and nationally or internationally recognized organizations.

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

Bed & Breakfast Inn – A house, or portion thereof, where short-term lodging rooms and meals are provided.

Blade/Bracket Sign – A sign that projects perpendicular from a structure (bracket sign) or is hung beneath a canopy (blade sign).

Boarding House - Rooming House – A building other than a hotel or bed & breakfast inn where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) persons or more.

Buffer Strip – A strip of land or planting designed to buffer noise, light, other structures, and other impacts by a fence, a wall, a berm, or an area with no structures, or a proportionately adjusted combination of the above.

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

Building, Height of – The elevation measured from the average finished lot grade at the building closest to the front lot line of the parcel on which the building is located; to the highest point of the roof.

Cabin – A detached building that is used for seasonal occupancy, but not including motels.

Canopy – A permanent roof-like shelter that extends from part or all of a building face and is constructed of non-rigid material, except for the supporting framework.

Changeable copy sign – A sign designed so that the message displayed can be changed continuously, this does not include electronically changeable signs, as they are not allowed in the Village.

Changing Structure – Any structural work that needs an Antrim County Building Permit.

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

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

Clear Vision Area – A triangular-shaped portion of land established at each angle of a street intersection in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists or pedestrians entering or leaving the intersection.

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

Community Garden – A lot that is gardened collectively by a group of people. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

Copy – The wording on a sign surface in either permanent or removable letterform.

Deck – An unroofed structure used for outdoor living purposes that may or may not be attached to a building and which protrudes more than four inches above finished grade.

Decorative Fence – A fence one (1) foot or less in height that serves a decorative purpose around gardens, flowerbeds, landscaping, and areas of a similar nature.

Districts – “Districts” as used herein is synonymous with the word “zones” or “zoning districts.”

Dwelling – A single unit building, or portion thereof, providing complete independent living facilities for one (1) family for residential purposes, including permanent provisions for living, sleeping, heating, cooking, and sanitation.

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

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

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

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

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

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

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

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

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

Fence – A man-made structure intended to serve or in fact serving the purpose of enclosing or marking the boundaries or a boundary of a property or preventing or controlling access to property or a portion of property.

Floor Area – The area of all floors computed by measuring the dimensions of the outside walls of a building. Porches, patios, terraces, breezeways, carports, verandas, garages, unfinished attics, attic floor areas with less than five (5) vertical feet from floor to finished ceiling, all basements, including walkout basements, are excluded.

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

Garages - Private – A detached accessory building or portion of main building for the parking or temporary storage of automobiles, boats, house trailers and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage - Public – A building, other than a private garage, used for the sale or repair of equipment or automobiles, motorcycles, snowmobiles, boats, and other similar vehicles or where such vehicles are parked or stored for re-numeration, hire or sale.

Garage Sales – Shall not be allowed for more than a four (4) day span, twice during a calendar year. The four (4) day spans must be at least five (5) days apart.

Gasoline Island Canopy – A structure constructed of rigid materials installed over gasoline pump islands. Signage on these canopies will be addressed in the special use section and not the sign section.

Glare – A sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance and visibility.

Grade – An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Greenbelt – A planting strip consisting of deciduous and/or evergreen trees and/or shrubs.

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

Home-Based Business – Any activity conducted either entirely within an accessory building or within an accessory building and a portion of a dwelling, including the exterior storage of materials or equipment related to the home-based business, which is clearly secondary to a residential use and carried out for economic gain. Provided, however, a home-based business shall not include an adult or sexually oriented business or a business conducting retail sales on site.

Home Occupation – Any activity conducted entirely within a dwelling, except an adult or sexually oriented business or a business conducting retail sales not incidental to services provided or performed on site, which is clearly secondary to a residential use and carried out for economic gain and which meets all the of the following requirements:

- The activity is conducted using no more than one (1) nonresident employee.
- Exterior of the dwelling in which the activity is conducted will retain its residential character.

- The activity does not create a nuisance in fact for surrounding properties in terms of lighting, noise, fumes, odors, vibrations or electrical interference.
- Adequate off street parking provided for patrons, clients, & nonresident employee.
- No more than one (1) on-site, non-illuminated sign 4 foot square and attached to the building the home occupation is located in.
- No more than fifty percent (50%) of the floor area of the dwelling is devoted to the home occupation.

Home Owners Association – A formally constituted non-profit association or corporation composed of the property owners or residents of a residential or commercial development organized for the purpose of performing management responsibilities for the common areas of the development.

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

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

Illegal Sign – A sign which does not meet the requirements of this Ordinance and which has not received legal nonconforming status.

Institutional or Public Uses – Churches, schools teaching academic subjects, hospitals, convalescent and nursing homes, parks, civic centers, libraries and other governmental structures.

Living Space – That area within a structure intended, designed, erected or used for human occupancy.

Land Use Permit – A zoning compliance permit required for any change in use of land or structure in accordance with the provisions of this Zoning Ordinance.

Lot – A parcel of land, either described by metes and bounds or by reference to a recorded plat, or a site condominium unit occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width as required by this Ordinance for the zoning district in which it is located.

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

Lot Clearing – The removal of trees, shrubs, or undergrowth with the intention of preparing real property for nonagricultural development purposes. This shall not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed; removal of dead trees; or normal mowing operations.

Lot Coverage – The amount of a lot, stated in terms of percentage that is covered by all roofed buildings and other structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs and the like, whether open box type and/or lathe roofs or fully roofed, but shall not include fences, walls or hedges used as fences, or swimming pools.

Lot Depth – The distance measured from the front lot line to the rear lot line. In cases where the front and rear lot lines are not parallel or there is a change in bearing along a front or rear lot line, the lot depth shall be measured by drawing imaginary lines from the front lot line to the rear lot line perpendicular to the front lot line at ten (10) foot intervals and averaging the length of these imaginary lines.

Lot - Interior – A lot other than a corner lot with frontage on one (1) street.

Lot Line – For the purpose of this Ordinance, a lot line is the boundary line between two (2) lots or the line between the properties of two (2) different owners.

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

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

C. Side – Any boundary line not a front lot line or a rear lot line.

Lot of Record – A parcel on record in the office of the Antrim County Register of Deeds.

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

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

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

Manufactured Home – A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Manufactured Housing Community – A parcel of land consisting of not less than fifteen (15) acres designed and intended as a permanent residential community consisting of manufactured homes designed, sited, constructed, operated, and maintained in accord with the requirements of this Zoning Ordinance, Michigan Home Commission Act, being at 96 of the Public Acts of 1987, as amended.

Manufactured Housing Community Home site – The designated parcel of land within a manufactured housing community upon which one single-family manufactured home and accessory buildings, if any, are placed.

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

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

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

Mobile Home – A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Monument sign – A sign where the entire bottom of the sign is affixed to the ground.

Motel – Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade.

Natural Features – A feature on land such as, but limited to, woodlots, water bodies, wetlands, high risk erosion areas, open spaces, slopes over 18%, drainage and similar features that add to the overall development of the area.

Nonconforming Building – A building or portion thereof lawfully existing at the effective date of the Zoning Ordinance or amendments thereto, and which does not currently conform to the setback, height, or other provisions of the Ordinance related to buildings in the Zoning District in which it is located.

Nonconforming Lot of Record – A lot lawfully existing at the effective date of this Zoning Ordinance, or amendment thereof, which fails to conform to the regulations of the zoning district in which it is located.

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

Nonconforming Use – A use, which lawfully occupied a building or land at the effective, date of this Ordinance or amendments thereof, and does not conform to the use regulations of the Zoning District in which it is located.

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

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

- A. A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

- B. Material as defined in Section 2 of Act No 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

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

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

Ordinary High Water Mark – The line between the upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high-established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

Outdoor business or Informational sign – A freestanding, overhanging, or wall mounted sign located outside of a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure on the same property as the sign, or at a location different than the property on which the sign is located.

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

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

Performance Guarantee – Any security accepted by the Village in the form of cash, certified check, performance bond, surety bond, or certificate of deposit endorsed to the Village and guaranteed to the specific project, provided that the Village shall not require more than 10 percent of the total performance guarantee in cash. Financial guarantee is to ensure that all improvements facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specification of a development or land use.

Permanent Sign – A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

Persons – An individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

Planned Unit Development (PUD) – Includes cluster zoning, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed 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.

Political Sign – For the purposes of this Ordinance, a temporary sign used in connection with a local, state, or national election or referendum. There may be only one sign per candidate, per lot. Any adjacent lot under the same ownership will be considered one lot for the purpose of this section. Signs must be removed within 48 hours of the close of the polls.

Portable sign – Any sign that is transported by design, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T-frame signs;
- Attached temporarily to ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;
- Menu and sandwich boards;
- Searchlight stand; and
- Hot-air or gas-filled balloons or umbrellas used for advertising.

Primary Caregiver – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

Primary Sign – Any sign not designated an accessory sign or a changeable copy sign and is used for the purpose of displaying primary information about the establishment.

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

Public Place – Any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element; a public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Real Estate Sign – A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

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

Off Road Vehicle (ORV) – A motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheeled, 3-wheeled, or 4-wheeled vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property where it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

Qualifying Patient – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act, and includes the parents or legal guardians of a qualifying patient under the age of 18 who are serving as the primary caregiver as required by the Michigan Medical Marijuana Act exclusively for that qualifying patient under the age of 18. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

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

School – A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

Setback – The minimal distance from an applicable lot line to the eaves of the closes building, within which no portion of any building or structure can be placed, except as otherwise provided in this Ordinance.

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

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

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

Shed – See “temporary accessory building or structure”.

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

Sign Surface – That portion of a sign excluding its base, foundation and erection supports on which is displayed information pertaining to a product, use, occupancy, function, service, or activity located within that structure, on the same property as the sign, or at a location different than the property on which the sign is located.

Site Plan – A scale drawing which shows the location and dimensions of improvements upon a parcel of land, including, but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems and drainage facilities, and environmental features.

Small-Scale Craft-Making – The production and sale of hand-made items including furniture, clothing, art, jewelry, toys, candles, collectibles and similar items on a scale that does not require a manufacturing plant and a large amount of specialized equipment and chemicals. No more than 50% of the structure is devoted to making crafts.

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

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

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

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

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

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

Story - Half – That portion of a building between the eaves and ridge lines of a pitched roof which may or may not be used for living space purposes.

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

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

Temporary Accessory Building or Structure – An accessory structure 200 square feet or less with no permanent footings or foundations and/or no water/sewer connections. A temporary structure includes, but is not limited to sheds, decks, patios, picnic tables, and temporary docks, composting structures.

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

Time and/or temperature sign – A sign designed to display the time and temperature.

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

Transitional Use – A permitted use or structure that by nature or level and scale of activity acts as a transition or buffer between two or more incompatible uses.

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

Use – The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.

Variance, Dimensional – A dispensation granted to provide relief from a specific standard in this Ordinance, which usually relates to an area, dimension, or construction requirement/limitation. It is the most common type of variance and, unlike use variances, does not affect

what land use may be established on a parcel. Rather it is granted only to allow permitted land uses to be developed in the face of some “practical difficulty.”

Variance, Use – A dispensation which authorizes a land use on a parcel which otherwise is not permitted by this Zoning Ordinance in the district in which the parcel is located upon a showing of undue hardship.

Vehicle Sales - New – An authorized dealership primarily for the sale of new vehicles but as an incidental use may include the sale of used vehicles.

Vehicle Sales - Used – An authorized dealership for the sale of used vehicles.

Wall Sign – Any sign attached parallel to a wall, painted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure, which is supported by such a wall or building, and which displays only one sign surface.

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

- (i) Contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream.
- (ii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subparagraph shall not be of effect, except for the purpose of inventorying, in counties of less than 100,000 population until the department certifies to the commission it has substantially completed its inventory of wetlands in that county.
- (iii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time.

Woodlot – A usually private area restricted to the growing of forest trees, especially for building material or fuel.

Window Area – Window area shall be computed by the area between the framing of the glass as a whole.

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

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

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

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

Zero Lot Line – The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

Zoning Administrator – The designated administrator of this Ordinance.

Zoning Permit – A standard form issued by the Zoning Administrator upon application and declaration by the owner or his duly authorized agent regarding proposed construction and use of land and building and structures thereon granting approval for the construction or use applied for.

ARTICLE III GENERAL PROVISIONS

Section 3.0 - Purpose

The general provisions of this Article shall apply to all districts, except as noted herein. Except for §3.5 (D) of this Ordinance, where the requirements of a general provision and a district regulation differ, the more restrictive requirement shall prevail.

Section 3.1 - Application of Regulations

Zoning affects every structure and use, and extends vertically. The following shall apply to the entire Village of Bellaire.

- A. No building or structure shall hereafter be erected, altered or moved, nor shall any building or premises hereafter be used for any purpose other than permitted in the district in which said building or premises are located.
- B. No building shall hereafter be erected or altered to exceed the height limitations, or occupy a greater percentage of lot area, or intrude upon the required setbacks or inner or outer courts, or accommodate or house a greater number of families, or provide less space per dwelling unit than is specified for the district in which such building is located.
- C. No lot area and no yard, court, parking area or other required space shall be so divided, altered, reduced or diminished as to make said area or dimension less than the minimum required under this Ordinance, except where such reductions has been brought about by expansion or acquisition of public rights-of-way for street, road or highway. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.
- D. No person shall undertake or carry out any such activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith for which site plan approval is needed by this Ordinance for the activity associated with the aforementioned activity.
- E. The Village of Bellaire, while exempt from the permitting process, will locate their public facilities as not to violate the remaining standards of this ordinance. Exception: The Village of Bellaire may locate public boardwalks within the 25' waterfront protection area in consultation with the Planning Commission.

Section 3.2 - Lot-Building Relationship

Hereafter, every building erected, altered or moved shall be located on a lot of record as defined herein, and except in the case of an approved multiple dwelling development, there shall be no more than one (1) principal building and its permitted accessory structures located on each lot in any residential district. No building or accessory building or structure shall be erected without first obtaining a zoning permit from the Zoning Administrator.

Section 3.3 - Restoration of Unsafe Buildings/Barrier Free Modification

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Antrim County Building Department.

Nothing in this Ordinance shall prevent the modification of a building without limit when doing so is limited only to comply with barrier free requirements and the American with Disabilities Act.

Section 3.4 - Continued Conformance with Regulations

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or property or use is located.

Section 3.5 - Accessory Buildings or Structures

- A. Authorized accessory buildings or structures may be connected to the principal building by a roofed porch, patio, breezeway or similar structure or may be completely detached from the principal building.
- B. Where any accessory building or structure is attached to the side or front of a principal building, such accessory building or structure shall be considered part of the principal building for purposes of determining yard dimensions.
- C. Except as provided in §3.5 (D) of this Ordinance, a detached accessory building or structure shall be located no closer to a side or rear lot line than the permitted distance for the principal building on the same lot.
- D. A detached accessory building or structure that is no greater than 200 square feet may 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. Accessory buildings must have eaves and soffit.
- E. No detached accessory building or structure, or any part of a detached accessory building or structure, shall be located in the front yard of any lot within the village.
- F. No construction of an accessory building or structure shall be permitted without a principal building unless in support of the construction of a principal building or a Special Use Permit is issued; however, an accessory building or structure may be constructed on a separate lot or parcel, provided that the separate lot is immediately adjacent to the lot on which the principal building is located; and further provided that a restriction is recorded with the Antrim County Register of Deeds which states that the two lots shall not thereafter be sold separately. The zoning permit shall also condition the building of such structures upon the recording of the restriction that the lots upon which the principal building and accessory building or structure exist may thereafter not be sold separately.

For purposes of this subsection, "immediately adjacent" shall not be construed to

disqualify two or more lots being considered as one development site merely because the lots are divided by a road right-of-way, easement, or dedication. However, the area of the lot on which the accessory building or structure is constructed shall not be used to meet the area requirements of the lot on which the principal structure is or will be constructed.

- G. 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.
- H. Manufactured homes, mobile homes, R.V.'s, and recreational vehicles, shall not be used as an accessory building or structure.

The following are applicable to all districts except Commercial, CBD, Conservation Reserve and Manufacturing:

- I. Accessory buildings or structures in this district shall include detached non-commercial garages and other structures. A single, permanent one-story accessory building or structure is permitted on each parcel or lot in addition to one (1) one-or two-story detached garage.
- J. The one (1) additional accessory building or structure must architecturally conform to the majority of the residential homes in the immediate area.
- K. Temporary accessory buildings or structures and/or sheds shall be no more than 200 square feet and shall be limited to two (2) per lot.

Section 3.6 - Accessory Buildings or Structures as Dwellings

No Accessory building, temporary or permanent, shall be used as dwellings.

Section 3.7 - Temporary Buildings

Temporary buildings may be utilized during construction for construction purposes. Temporary buildings for use incidental to construction work shall be removed within thirty(30) days after the completion or abandonment of the work. No structures shall be used for temporary dwelling purposes that do not comply with the requirements of this Ordinance or any applicable building codes. No garage or other accessory building or structure, R.V., basement, tent, barn, partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purposes unless authorized by the issuance of a zoning permit by the Zoning Administrator.

All construction debris shall be removed from the site within thirty (30) days after the completion or abandonment of the work.

Section 3.8 – Use of Basements

No basement shall be used for living space unless a completed story is situated above the basement and itself constitutes living space. Basements used as living space shall meet all requirements of the building code in effect within Antrim County.

Section 3.9 - Moving Buildings

The moving of a building to a different location shall be considered the same as erection of a new building, and all provisions, regulations or requirements relative to the erection of a new building shall be applicable thereto. No building shall be moved without first obtaining a zoning permit from the Zoning Administrator.

Section 3.10 - Projections

The setback requirements of all zones are subject to the following permitted encroachments:

- A. Terraces, patios, decks, and similar structures may project into the front or rear setback requirements as required herein, provided that such structure be unroofed and without walls or other continuous enclosures and are not constructed in the road right-of-way; except that porches and other appurtenances shall be considered an integral part of the building to which they are attached and shall be subject to all setback requirements thereof. All terraces, patios, decks, and similar structures shall conform to the stated side yard setbacks in that district.
- B. Chimneys, flues, cornices, eaves, gutters and similar features may project into any required setback a maximum of twenty-four (24") inches.
- C. Unenclosed and unroofed fire escapes, outside stairways and balconies may project into a required setback a maximum of five (5') feet.

Section 3.11 - Intersection Visibility and Street Right-of-Way

On any corner lot in any district requiring front and side yards, no fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision between the heights of three (3') feet and ten (10') feet within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines and thirty (30') feet distant from their point of intersection. Such heights of clear vision areas shall be measured from the elevation of the street centerlines at the point of intersection. No fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision from a driveway between the heights of three (3') feet and ten (10') feet, measured above the elevation of the street center line, within ten (10') feet of any front property line. No permanent or temporary structure or projection shall be placed in the street right-of-way.

Section 3.12 - Through Lots

In any district, a through lot, as defined in this Ordinance shall comply with the front setback requirements along each street lot line.

Section 3.13 - Essential Services

Essential services, as defined herein, shall be permitted as authorized and regulated by law, public policy and specific zoning regulations in any district, it being the intention otherwise to exempt such erection, construction, alteration, and maintenance from the application of this Ordinance when not in conflict with Article I of this Ordinance. When in conflict, the Board of Appeals shall have the power to determine reasonable conditions under which such facilities shall be erected. Telecommunication towers, alternative tower structures and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

All directional signs required for the purpose of orientation, when established by the Village, Township, County, State, or Federal governments, shall be permitted in all Districts.

Section 3.14 - Grades

No premises shall be filled or graded to discharge surface runoff on abutting premises. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.

Section 3.15 - Height Regulations

No building shall exceed thirty-five (35') feet in height. Height regulations shall apply to any area that could be used as living space (belfries, etc.), but shall not apply to areas that could not be used for living space (chimneys, etc.), other than, but not limited to structures such as roof top balconies, catwalks, etc. These regulations are detailed in Section 5.8 Table of Regulations.

Section 3.16 Stormwater Management

Stormwater will be maintained on site using calculations of pre and post development figures. Stormwater allowed to leave the site, must not flow at a greater rate than before development. All storm water management plans shall be designed to effectively pass one (1) 100 year, 24 hour storm event. Protection must be in place to control oil and grease as not to release them into stormwater and groundwater.

Properties zoned Central Business District will not be required to meet the standards of the Stormwater management section.

Section 3.17 Slope Protection

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, not withstanding 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 roads shall be aligned with the natural contour of the land in order to minimize cutting and filling.
- J. Drainage of stormwater from access drives, roads, 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 3.18 Waterfront Protection: To preserve natural resources, water quality and community scenic and recreational values, a greenbelt shall be established and maintained on all waterfront lots. The 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 high water mark. If public walkways are located in a greenbelt area that is considered a wetland, the boardwalks must be raised in nature. Any development within the greenbelt shall comply with all of the following requirements:

- A. No structures, including parking area(s), shall be allowed within the 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 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 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 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 to provide a view of the water.
- 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 shall be maintained until the completion of construction within the greenbelt area.
- 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 may be used, stored, or located within the 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, while also screening the principal structure, parking areas, and vehicles from direct view from the water.
- J. Pathways may be constructed within the greenbelt area and within the native vegetation strip if all of the following requirements are met:
 - (i) The pathway is constructed of permeable material that does not allow service

water to drain directly into the lake, river, or stream.

- (ii) For waterfront lots with frontage of 100 feet or less, no more than two (2) pathways are permitted. The total width of all pathways shall not exceed twelve feet (12).
- K. For waterfront lots with frontage of more than 100 feet, no more than three (3) pathways are permitted. The total width of all pathways shall not exceed sixteen (16) feet, and the width of any single pathway shall not exceed twelve (12) feet.

Section 3.19 - Wetland Regulations

The Village of Bellaire contains many land areas which have a high water table or are wholly or partially submerged, and which are grown over with grass, shrubs, trees, and other wetland vegetation, which provides a natural habitat for numerous forms of wildlife. These water resources and wetland areas filter runoff and capture sediments, which help maintain the high quality water resources of the Village of Bellaire. Wetland areas also provide breeding habitat for our fisheries and wildlife resources.

These areas are not naturally suitable for use or habitation by people and cannot be converted to such use without dredging, filling, clearing, excavation, and draining operations, which would disturb the natural character and purity of the adjoining waters. Wetlands also contribute to the overall beauty and character of the Village of Bellaire, which attract many residents and tourists. It is also important to protect wetlands since they also serve as groundwater discharge and recharge areas, and can minimize storm or flood damage by hydrologic absorption and storage capacity. **It is also the intent of this Section to protect wetland resources by regulation irrespective of parcel lines, small size, and/or contiguous aspect to surface waters.**

All wetlands in the Village of Bellaire that are not contiguous to an inland lake, pond, river or stream and more than 1/8 acre in area, but less than 2 acres in area are regulated by this section. A wetland, however, shall not include the construction and operation of a water treatment pond or lagoon in compliance with the requirements of state or federal water pollution control regulations.

Any land division in a wetland, will not be allowed, unless of the proposed split lots includes a conforming upland, building site on each lot.

Any development, except the uses allowed in a wetland without a permit under Section 30305 of Part 303 of the Natural Resources and Environmental Protection Act, being MCL 324.30305, shall comply with all of the following requirements:

- A. An environmental assessment of the proposed use or development within the wetland, which assessment shall include the effects upon wetland benefits and the effects upon the water quality, flow, and levels, and the wildlife, fish, and vegetation within a contiguous lake, river, or stream.
- B. The site does not support state or federal endangered or threatened.
- C. The site does not represent what is identified as a locally rare or unique ecosystem.
- D. The site does not support plants or animals of an identified local importance.

- E. The site does not provide flood and storm control by the hydrologic absorption and storage capacity of the wetland.
- F. The site does not provide groundwater recharge documented by a public agency.
- G. The site does not provide wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
- H. The site does not provide protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
- I. The site does not provide pollution treatment by serving as a biological and chemical oxidation basin.
- J. The site does not provide erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
- K. The site does not provide sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
- L. The site does not provide sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
- M. The proposed development is in the public interest. In determining whether the proposed development is in the public interest, the Planning Commission shall balance the benefit, which reasonably may be expected to accrue from the proposed development against the reasonably foreseeable detriments of the proposed development. When balancing these interests, the Planning Commission shall consider the following general criteria:
 - 1. The relative extent of the public and private need for the proposed activity.
 - 2. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
 - 3. The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited, including the benefits the wetland provides.
 - 4. The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
 - 5. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
 - 6. The size of the wetland being considered.
 - 7. The amount of remaining wetland in the general area.
 - 8. Proximity to any waterway.
 - 9. Economic value, both public and private, of the proposed land change to the general area.

Section 3.20 – Recreational Vehicles

- A. No person shall park or cause to be parked any R.V. overnight on any street, alley, highway or other public place, provided that in case of accident or emergency, officers of the Bellaire Police Department or any member of the Antrim County Sheriff's Department may permit such parking at such place and upon such conditions as are then specified by officers of the Bellaire Police Department or member of the Sheriff's Department.
- B. No person shall park or cause to be parked any occupied (at any time) RV or R.V. on any site, lot, field, or tract of land not specifically licensed as an R.V. park for more than thirty (30) days per calendar year, with no more than fifteen (15) days being consecutive. A zoning permit is required.
- C. In the event of an extreme medical emergency the Planning Commission may issue an extension, not to exceed six (6) months, for the placement of a R.V. on any occupied dwelling unit in the Village. The fee for such an extension will be the standard special use permit fee.
- D. One (1) R.V. may be parked on the lot of any occupied dwelling unit in the Village provided, except as provided in §3.20 (C)(1).
 - 1. The R.V. shall carry current state license plates no more than one (1) year in expiration.
 - 2. The R.V. is not connected to water and sewer services currently being utilized by the dwelling.
 - 3. Wheels and tires are not removed at any time while stored except for the purposes of repair.
 - 4. The R.V. is not used for any purpose.
 - 5. The R.V. is locked at all times and not used for storing materials of any kind other than the furnishings and personal items common to a R.V.
 - 6. The R.V. is not elevated, blocked or stabilized in any manner other than with jacks designed for that purpose and does not have the wheels removed except for the purposes of repair.
 - 7. The trailer is not occupied at any time while stored.

Section 3.21 – Greenbelts, Buffers, and Open Space

A greenbelt or 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. In all instances, this may be provided as part of the side or rear requirements. The greenbelt or 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.

A greenbelt shall be required for new residential, commercial, or manufacturing construction that abuts the Conservation Reserve District.

Section 3.22 - Fences

- A. It shall be unlawful for any person to construct, or cause to be constructed, a fence upon property within the village without first having obtained a permit from the Zoning Administrator.
- B. Any person desiring a permit to construct, enlarge, alter, or reconstruct a fence shall file a written application with the zoning administrator and, if applicable, pay the required fee as established by the Village Council pursuant to §12.5 of this Ordinance. The application shall contain a drawing of the proposed location of the fence on the property, the type of fence to be constructed, enlarged, altered, or reconstructed, and such other information as may be required by the zoning administrator to determine that the fence will not violate any provisions of this Ordinance or state law. It is recommended that you have a survey of your property line, before proposing the fence line. It is your responsibility to make sure that the fence is on your property.
- C. Any person desiring to construct a fence within eight (8) feet of any property line shall pay the required fee. A no-fee permit will be issued for those instances in which a fence will not be within eight (8) feet of any property line.
- D. Any fence lawfully in existence at the time this ordinance becomes effective may continue to exist although it does not conform to the provisions of this section. However, such nonconforming fences shall not be enlarged, altered, or reconstructed, unless such fence is made to conform to the provisions of this section, a permit is obtained, and the required fee is paid. Nothing in this subsection shall prevent such necessary repairs and maintenance of a nonconforming fence as may be necessary to secure a reasonable use of it during its natural life, which may be done without a permit.
- E. General Requirements. The following regulations shall apply to all fences within the village:
 - 1. Except as provided herein, all fences shall be located entirely on the property of the person constructing the fence. A fence may be constructed on the common property line between two (2) lots if the landowner constructing the fence can attest that the fence is on the line. It is recommended that a survey be done before erecting a fence.
 - 2. The portions of all fences facing property other than the property of the fence owner or facing a street right-of-way shall be finished so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the street right-of-way.
 - 3. The gates in all fences shall not swing open over a public street right-of-way, but must swing open over the property of the fence owner.
 - 4. No fence shall be constructed or maintained which is charged or connected with an electric current that can cause an electric shock upon contact.

5. All fences shall be maintained in good condition and shall not constitute a safety hazard. Any fence not maintained as required by this subsection shall be removed by the owner of the fence.
6. Decorative fences shall be one (1) foot or less in height and may serve as decoration around gardens, landscaping, and areas of a similar nature and shall be located no less than one (1) foot from the property line. No application or fee shall be required for decorative fences.

In addition to the general requirements of §3.20 (E), the following regulations shall apply to all fences within the R-1, R-2, R-3, Village Commons (Commercial) and Central Business District:

7. Fences located in a front yard of a lot shall be a height of no more than four (4) feet, as measured vertically from the surface of the ground to the top of the fence/post combination.
8. Fences located in a front yard of a lot shall be constructed of brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, or similar material. No chain link fences shall be constructed in a front yard.
9. No barbed wire fence shall be constructed or maintained, and no spikes, nails, barbs, or other pointed instruments shall be affixed to any fence so as to project from the fence.
10. Fences located in a rear or side yard shall be a height of no more than six (6) feet, except as provided for in subsection J.5, as measured vertically from the surface of the ground to the top of the fence/post combination; provided, however, that fences located in a side yard shall not extend closer to the front lot line than the front of the principal building or the required front yard setback, whichever point is farther from the front lot line.
11. Fences located in a rear or side yard shall be a constructed of brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, or similar material. Chain link fences are permitted in a rear or side yard. Fence posts may not exceed twelve (12) inches from the top of the fence.
12. All fences shall be finished on the side facing the adjoining property owner, public highways and/or alleys. Fence owner is responsible for maintenance immediately if fence falls onto neighboring property.

In the In addition to the general requirements of §3.20 (E), the following regulations shall apply to all fences within the Village Commons Commercial, Commercial, Manufacturing, and Conservation Reserve District:

13. Fences located in this district shall be a height of no more than twelve (12) feet, as measured vertically from the surface of the ground.
14. Fences located in this district shall be constructed of brick, stone, wood

boards, split rails, wrought iron, decorative concrete block, decorative chains, decorative rope, or similar material. Chain link fences are permitted.

15. Barbed wire strands may be affixed to a fence, provided that no portion of the barbed wire strands is lower than six (6) feet from the nearest ground level.

F. Waterfront and Through Lots. Front yard fence requirements apply to both the front and rear yards of waterfront and through lots.

Section 3.23 – Business and Informational Signs:

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. General Provisions:** The size of any publicly displayed sign, symbol or notice on a premise to indicate the name of the occupant, to advertise the business there transacted, or directing to some other locale, shall be regulated as follows with the exception of §3.23 (B) and in addition to requirements listed in Section 3.23 (C).

TABLE ONE									
	R1	R2	R3	VC	CBD	C	M	CR	
Awning/Canopy					District size				
Bracket (not over building height in CBD)					District size				
Cluster (each sign)					District Size				
Ground-Mounted	District Size				6' high	District Size			
Monument	District size								
Portable					Most are not allowed				
Sp. Ad. Devices					District size				
Time/Temp					District size				
Wall (not over building height in CBD)					District size				
Residential Nameplates			Can be 4² foot square						
Real Estate	Sign size for all districts is 6² square feet								
Temporary Sign	Meet the district standards								

1. By reason of their size, location, spacing, construction or manner of display, signs shall not endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety.
2. Signs should enhance the aesthetic appeal of the Village. Thus, these regulations are intended to: 1) regulate oversized signs that are out-of-scale with the surrounding buildings and structures, and 2) prevent an excessive accumulation of signs, which cause visual clutter and distraction.
3. Individual businesses are limited to two (2) primary signs in addition to one (1) changeable copy sign. Primary signs are limited to the size restrictions listed in Table 1. Changeable copy signs are limited to the size restrictions stated in §3.243 (F).
4. Individual businesses are limited to two (2) signs per support structure – one (1) primary in addition to one (1) changeable copy. No portable changeable copy signs will be allowed in any district, other than those classified as sandwich board signs.

5. Individual businesses with an entrance on different streets (such as Bridge Street and Bridge Lane) may have one location sign on the back of the building, no larger than 2' X 2'. These businesses may have 3 signs per business if one of the signs is the location sign on the back of the building.
6. The above size limitations apply to the sign surface only, not the support structure.
7. Residential subdivisions and developments shall be limited to a maximum of one (1) sign per entrance of up to ten (10) square feet per sign.
8. Before erecting a sign above or in a public right-of-way, the owner of the sign shall receive the written approval of the proper governmental agency having jurisdiction over that right-of-way. An overhanging sign shall not project beyond the structure wall to which it is attached more than five (5) feet and shall be no less than ~~fourteen (14)~~ nine (9) (amended August 2009) feet above the public right-of-way.
9. Approval: No sign requiring a zoning permit shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by a Planning & Zoning Commission (PC) approved site plan. After ZA or PC approval, the required sign permit shall be issued. A property owner may maintain, improve, or replace an existing conforming sign without a sign permit provided the type, size, shape and height do not change and the use remains the same.

B. Conditions: In addition to the size limitations stated in §3.21 (A), the following conditions shall apply to all signs erected in any use district:

- 1. Obstruction of Vision:** No signs shall be located on any street corner which would obscure the clear vision area of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the clear vision area of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
- 2. Imitation of/Confusion with Traffic Signs/Signals:** No sign shall be permitted which is an imitation of any traffic sign or signal. No sign shall be permitted which is of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal, except for official governmental signs.
- 3. Directional Signs:** All directional signs required for the purpose of orientation, when established by the Village, Township, County, State, or Federal governments, shall be permitted in all Districts.
- 4. Illumination:** 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. Illuminated signs shall not be of the flashing, moving or intermittent type.
- 5. Animated or Moving Signs:** No sign shall move in any manner or have a major moving part. No sign shall create a special effect to imitate movement. Exception: in the CBD open signs may blink on or off as long as they do not

interfere with the vision of persons on the adjacent highway, streets or properties.

6. **Display:** Both sides of any ground-mounted or overhanging sign may be used for display.
7. **Overhanging Signs:** No sign shall project from, 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 shall receive the approval of the proper governmental agency having jurisdiction over such right-of-way (county or state).
8. **Awning Signs:** A sign painted on, printed on, incorporated in, or attached flat against the surface of an awning.
9. **Roof Position Signs:** Roof position signs are specifically prohibited.
10. **Percent of Building Face:** In no case shall a sign or signs, including wall and window signs, exceed a total of ten percent (10%) of the building face to which they are attached.
11. **Portable Signs:** Portable signs shall be prohibited, except where the Zoning Administrator finds such are necessary for a special event of a specific duration, and removed within one (1) day after the designated special event. Approved sandwich board portable signs shall not exceed 24 inches in width by 48 inches in height and shall be removed nightly.
12. **Seasonal Recurring Events:** In the case of seasonal recurring events, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are permitted with seasonal permit. Such advertising devices shall not be used for a period of more than seventy-two (72) hours.
13. **Banners Across M-88:** The temporary location of banners across M-88, at Village defined locations, shall be permitted for a period not to exceed seven (7) days, subject to scheduling with the Village Department of Public Works.
14. **Political signs:** Political signs must be removed within forty-eight hours (48) after the election. Only one sign per political candidate may be displayed on each parcel or adjoining parcels under the same ownership.
15. **Offensive Signs:** No sign or flag shall contain statements, words, or pictures of an obscene, indecent or immoral character, such as will offend public morals or decency.
16. **Sign Affixed to Other Surfaces:** No sign shall be affixed to trees, shrubs, utility poles, or other similar objects except signs of any political subdivision of this State, granting agencies, or dedication signs. No sign shall be affixed to a fence without first being approved by the Zoning Administrator as meeting a special purpose.

17. Theater Signs – Theaters shall be permitted additional signs designed for periodic message change that indicate the entertainment at the theater. Any such sign shall have a total area of not more than one hundred (100) square feet per theater.

C. Signs Allowed Without a Permit: The following signs are allowed without a permit, notwithstanding any prohibition contained in this Ordinance, provided such signs are established in a lawful manner and placed so as not to cause a nuisance or create a safety hazard:

1. **Residential Nameplates and addresses.**
2. **Real Estate (Residential):** On single-family and two-family real estate, one non-illuminated sign advertising the sale or lease of the lot or building on which the sign is placed. Such sign shall not exceed six (6) square feet in area, and no more than one (1) sign for each street upon which the property faces.
3. **Real Estate (Commercial):** Signs with a total area not in excess of twelve (12) square feet advertising the sale or rental of real estate other than single-family or two-family houses are permitted. It shall have a maximum height of ten (10) feet and shall meet the setback requirements of the zoning district unless attached to a permanent building. There shall be no more than one (1) sign for each street upon which the property faces.
4. **Political or Opinion Signs:** Temporary, non-illuminated signs supporting a political candidate or offering an opinion on an issue or subject. Such signs shall not exceed eight (8) square feet in size, and, in the case of sign related to an election, shall be removed within forty-eight hours (48) after the applicable election. Only one sign per political candidate may be displayed on each parcel or adjoining parcels under the same ownership.
5. **Memorial/Historical Signs:** Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface of a building or when constructed of bronze or other incombustible material affixed to a building. Also includes signs designating the building as a historical structure.
6. **Noncommercial Designation Signs:** Signs not exceeding two (2) square feet each which contain only noncommercial messages including designation of restrooms, telephone location, restrictions on smoking, and door openings.
7. **Affiliation Signs:** Business signs not exceeding one (1) square foot containing information on credit cards and business affiliations.

Yard/Garage Sale: Temporary, non-illuminated signs advertising yard, rummage, garage, basement, porch, or deck sales and other such signs shall not exceed six (6) square feet in size, shall be permitted five (5) days prior to the event and shall be removed twenty-four hours after a period of. There shall not be more than two (2) on-premise signs per sale. The resident at the address shall be the responsible party. Shall not be allowed for more than a four (4) day span, twice during a calendar year. The four (4) day spans must be at least five (5) days apart.

8. **Temporary Sign:** All temporary signs must be on record in the Village of Bellaire offices.

- D. Previous Approved Signs:** Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs. No fee shall be charged in addition to the zoning permit fee for these signs.
- E. Signs Requiring a Sign Permit:** Except as otherwise provided in subsection C above, no sign shall be erected within any zoning district, until a sign the zoning administrator issues permit. Sign permit fees shall be established by the Village Council as provided in Section XII of this Ordinance. Before issuing a sign permit, the zoning administrator shall determine that the proposed sign complies with all requirements of this section.
- F. Size Regulations:** Other than regulations mentioned in other sections, the following regulations would apply in the specific zoning districts:

Zoning District	Maximum Sign Size	Maximum Height
R-1	4 ² square feet	5 feet high
R-2	4 ² square feet	5 feet high
R-3	4 ² square feet	5 feet high
Village Commons	24 ² square feet	6 feet high
Central Business District	20 ² square feet	10 feet high for ground mounted
Commercial/PUD/Manufacturing	32 ² square feet	10 feet high
Manufacturing	32 ² square feet	10 feet high
Conservation Reserve	24 ² square feet	10 feet high

Section 3.24 – Dwelling Standards

- A. A dwelling shall comply with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. A dwelling shall have a minimum width across any front, side or rear of the structure at floor level of twenty (20) feet and comply in all respects with the current Michigan State Construction Code as promulgated by the Michigan State Construction Commission under the provision of 1972 P.A. 230 as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standard or regulations for construction are different than those imposed by the county building code, then, and in that event, such federal or state standard or regulation shall apply.
- C. A dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the county building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and types as required in the applicable building code for single family dwellings.
- D. The dwelling shall be connected to a public sewer and water supply.
- E. The dwelling shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, whichever is less.
- F. The dwelling shall contain no additions or rooms or other areas that are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- G. The dwelling shall comply with all pertinent building and fire codes. In the case of a manufactured home, all construction and insulation within and connected to said manufactured home shall be of a type and quality conforming to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended as promulgated by the U. S. Department of Housing and Urban Development. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- H. The foregoing standards shall not apply to a manufactured home located in a licensed manufactured home park except to the extent required by state or federal law or otherwise specifically required in the Village Ordinance pertaining to such parks.
- I. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 P.A. 230 as amended.

Section 3.25 – Outside Display of Merchandise

1. Display shall be allowed only as an accessory use to the main use on the same lot or tract of land.
2. 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.
3. Displays shall conform with all of the following requirements:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. Ice machines and propane fill tanks are excluded from the square footage requirement.
4. 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.
5. Central Business District Outside Display: Merchandise relating to the main business may be displayed outside not extending more than 3 feet from the main building. Outside display of merchandise must not interfere with pedestrian traffic.

Section 3.26 – Parking

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 4th 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 3.26C 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 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 3.26C 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.
Hospitals, 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 3.27 – General Development Standards

The Planning & Zoning Commission in reviewing all applications shall utilize the following standards. These standards provide a frame of reference for the applicant as well as for the reviewing authority in making judgment concerning applications. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation. The Planning & Zoning Commission may waive a standard when it finds that the standard is not applicable to the development under consideration.

- A. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, uses on the adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- B. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
- C. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the village.
- D. Removal or alteration of significant natural features shall be restricted to those areas that are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning & Zoning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
- E. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- F. The proposed use shall provide reasonable visual and sound privacy for all dwelling units located therein, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes. Any buffer required shall be completely solid to the ground level.
- G. All buildings and groups of buildings and outside display of merchandise and vehicles shall be arranged so as to permit necessary emergency vehicle access.
- H. All streets shall be developed in accordance with the Village of Bellaire Standards, Specifications and Regulations for Subdivision Streets and Proposed Public Roads, as appropriate. In addition, sidewalks may be required if determined to be necessary or appropriate for pedestrians and non-motorized vehicles.
- I. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater and to prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the

flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.

- J. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of building or structures shall be minimized to reduce light pollution.
- K. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts of public streets shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height and solid to the ground. The finished side of any wall, fence, or other screen shall face adjacent properties.
- L. Entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of entrances to and exits from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.
- M. Proposed projects shall conform to all applicable requirements of county, state, and federal statutes and ordinances. Approval may be conditioned on the applicant receiving all other necessary permits.
- N. Appropriate fencing may be required around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.

Section 3.28 – Medical Use of Marijuana

[Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

- 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 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 12.1 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 3.29 – Community Gardens

[Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

A community garden is hereby authorized as a special land use in any zoning district, provided that the general standards for the approval of a special use permit provided in Section 9.4 of this Ordinance are met and all of the following specific standards are met:

- A. No structures shall be allowed on the lot, except one (1) building that is accessory to the community garden use and that is no more than 100 square feet in floor area and no more than sixteen (16) feet in height. Any such structure shall meet all applicable setbacks of the zoning district in which located.
- B. Any composting on the lot shall be enclosed on all sides (but not necessarily the top) by a fence or other physical barrier that prevents composting materials from blowing around on the lot or blowing onto adjacent lots and that is no taller than the applicable height limitation for a fence in that location (i.e., front yard, side yard, or rear yard) for the zoning district in which located. Any such composting area shall meet all applicable setbacks of the zoning district in which located.
- C. No more than one (1) on-site, non-illuminated identification sign for the community garden shall be allowed on the lot. This sign shall be no more four (4) square feet in sign surface area.
- D. The community garden shall be designed and maintained so that surface water does not drain on to adjacent lots.

**ARTICLE IV
ESTABLISHMENT OF ZONING DISTRICTS**

Section 4.0 - Zoning Districts

In order to regulate and restrict the location, erection, alteration or use of buildings, structures of land and to carry out the purposes of this Ordinance, the Village of Bellaire is hereby divided into the following zoning districts:

- “R-1” – Single Family Residential District
- “R-2” – Multiple Family Residential District
- “R-3” – High Density Single Family Residential District
- “VC” – Village Commons
- “C” – Commercial District
- “CBD” – Central Business District
- “M” – Manufacturing District
- “CR” – Conservation Reserve District

Section 4.1 - Zoning District Map

The locations and boundaries of these districts so established are bounded and defined as shown on the map, entitled “Bellaire Village Zoning District Map”, which accompanies and is hereby declared to be a part of this Ordinance with the same force and effect as if the districts shown thereon were fully set forth by metes and bounds herein. A current and up-to-date Bellaire Village Zoning District Map, with all amendments noted, shall be kept on file in the office of the Village of Bellaire, and this map shall be the final authority as to the current zoning status of land, buildings and other structures in the Village of Bellaire. Regardless of the existence of copies of the zoning map that may be made or published, the official Zoning Map shall be located at the Village Offices and shall be the final authority as to the current zoning status in the Village. No amendment to this Ordinance that involves a change of a mapped zoning district shall become effective until such change has been made on the official Zoning Map. The official Zoning Map shall be identified by the signature of the Village President and attested to by the Zoning Administrator.

Section 4.2 - Interpretation of Zoning District Boundaries

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning District Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately contiguous with street or highway centerlines or right-of-way lines, such centerlines or right-of-way lines shall be construed to be said boundaries.

- B. Where district boundaries are indicated as approximately contiguous with platted lot lines, section lines, quarter-section lines, or other survey lines, such lines shall be construed to be said boundaries.
- C. Where district boundaries are indicated as approximately parallel to street or highway center lines or right-of-way lines, or to section lines, quarter-section lines or other survey lines, such boundaries shall be construed to be parallel thereto and at such distance there from as indicated on the Zoning District Map.
- D. Where the boundary of a district follows the shoreline of any river or stream, the boundary line shall be interpreted as following such shore line and in the event of change in shore line shall be construed as moving with said shore line.

Section 4.3 – Public Rights-of-Way

Each street, alley, railroad right-of-way, or other public right-of-way is zoned to the center line according to the zoning of the properties immediately adjacent to the public right-of-way.

Section 4.4 – Zoning Upon Annexation

Whenever any area is annexed to the Village of Bellaire, it will be zoned as a previously existing Village parcel to which the new parcel is contiguous. If there are two parcels that are contiguous to the newly annexed property, then the zoning district, which is most restrictive, shall apply.

Section 4.5 – Zoning of Vacated Areas

Whenever any street, alley or other public way within the Village of Bellaire shall have been vacated according to Michigan Law and when the lands within the boundaries thereof attached to and become a part of lands adjoining such street, alley or public way, such lands formerly within such vacated street, alley or public way shall automatically, and without further action assume the zoning district to which it attached by operation of law. Thenceforth they shall be subject to the same zoning regulations as are applicable to lands to which same shall attached and the same shall be used for the same use as is permitted under this ordinance for such adjoining lands.

Section 4.6 – Airport Zoning

In addition to the requirement of this Ordinance, all land within the Village of Bellaire shall comply with the regulations of the Antrim County Airport zoning.

**ARTICLE V
ZONING DISTRICT REGULATIONS**

Section 5.0 - "R-1", Single-Family Residential District

A. Purpose

The purpose of this district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the Village sewer system. It is further the purpose of this zoning district to create a low- and medium-density areas for single-family dwelling units.

B. Permitted by Right

Land and/or buildings in the "R-1" Zoning District shall be used for the purposes listed below:

- Single Family Dwellings
- Parks and Playgrounds
- Transient Food and Ice Cream sales vehicles
- Home Occupations

C. Uses by Special Use Permit

The Special Uses as listed below may be authorized in the "R-1" Single- Family Residential District by Special Use Permit in accordance with the procedures, provisions and standards of Article IX of this Ordinance.

- Roof Mounted antennas for uses other than T.V. Reception- 35 feet or less and for private wireless use only
- Small-scale Crafting Work Shops
- Catering Business with no office or signs
- Home Based Business
- Bed and Breakfast
- Secondary Dwelling Units for use by guests and relatives
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Area Regulations

No building or structure shall hereafter be erected, altered or enlarged unless the following setback and lot requirements are provided and maintained in connection with such building, erection, alteration or enlargement.

- A. Front Setback - There shall be a front setback of not less than twenty-five (25') feet.
- B. Side Setback - There shall be a side setback of not less than five (5') feet on each side of any dwelling or accessory building or structure, except on the street side of a corner lot where a twenty-five (25') foot side setback shall be provided and maintained.

- C. Rear Setback - There shall be a rear setback of not less than twenty-five (25') feet.
- D. Lot Area - The minimum lot area shall be six (6,000) thousand square feet with a minimum width of fifty (50') feet and a minimum depth of one hundred-twenty (120') feet from the front lot line.
- E. Floor Area Regulations - Each dwelling unit in this zoning district shall have a minimum of eight hundred (800) square feet of usable floor area exclusive of unenclosed porches, garages, and basements.

Section 5.1 - "R-2", Multiple-Family Residential District

A. Purpose

This zoning district is provided to encourage the development of a sound and stable environment for two-family dwelling units and multiple-family dwelling units including pre-planned apartments, garden apartments or condominium apartment complexes.

B. Use Regulations

Land and/or buildings in the "R-2" Zoning District shall be used for the purposes as listed below:

- Single Family Dwellings
- Secondary Dwelling Units for use by guests and relatives
- Two Family Dwellings
- Multiple Family Dwellings
- Religious Institutions
- Public and Private Educational Facilities
- Parks and Playgrounds
- Libraries
- Transient Food and Ice Cream sales vehicles
- Home Occupations
- Buildings accessory to above uses
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

C. Uses by Special Use Permit

The Special Uses as listed below may be authorized in the "R-2" Multiple-Family Residential District by Special Use Permit in accordance with the procedures, provisions and standards of Article IX of this Ordinance.

- Public Facilities
- Professional Offices
- Roof Mounted antenna's for uses other than T.V. Reception – 35 feet or less and for private wireless use only
- Small Crafting Work Shops
- Home Based Business
- Catererring Business with no office or signs
- Bed and Breakfast
- Rooming and Boarding Houses
- Commercial Child Care Centers
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Area Regulations

No building or structure shall be hereafter erected, altered or enlarged, unless the following setbacks and lot area requirements are provided and maintained in connection with such construction, alteration or enlargement for multiple family residential development.

1. Front Setback:

Two-Family Dwelling Units – There shall be a front setback of not less than twenty-five (25') feet.

Multiple-Family Dwelling Units - Where it is the intention of the developer to utilize the front yard area for parking, there shall be a setback from the right-of-way of each street on which the "R-2" Zoning District abuts of at least twenty-five (25') feet; of which the front five (5') feet shall be landscaped.

2. Side and Rear Setbacks:

Two-Family Dwelling Units – There shall be a side setback of not less than five (5') feet on each side of any dwelling or accessory building or structure, except on the street side of a corner lot where a twenty-five (25') side setback shall be provided and maintained. There shall be a rear setback of not less than twenty-five (25') feet.

Multiple-Family Dwelling Units - There shall be minimum side setbacks of thirty-(30') feet. For single family homes, the rear setback shall be a minimum of twenty-five (25') feet, other uses shall have a minimum rear setback of thirty (30') feet, except where the subject property abuts any single family zoning district in which case side setbacks and rear setbacks shall be forty (40') feet.

E. Required Spacing Between Multiple-Family Dwellings:

- (1) Spacing between multiple-family dwellings shall comply with the following minimum dimensions:

Building Relationships	Distance Between Buildings (In Feet) Exclusive of Parking area
Front to Side	45
Front to Rear	60
Rear to Rear	60
Side to Side	35
Corner to Corner	30

- (2) In no instance shall a building be constructed closer than thirty feet to another building.

F. Lot Area and Yard Width for Multiple-Family Dwellings:

- (1) The minimum lot area for any residential use other than for single-and two-family dwellings shall be 20,000 square feet, in addition to the following minimum lot area requirements per dwelling unit type:

Dwelling Unit Type	Additional Lot Area Requirements per Unit
Efficiency	3,500 sf
One Bedroom	4,000 sf
Two Bedroom	5,000 sf
Three Bedroom	6,500 sf
More than 3 Bedroom	8,500 sf

- (2) Minimum lot area requirements shall be met exclusive of public or private road rights of way.
- (3) Water bodies, either natural or constructed, shall count toward meeting minimum lot area requirements only up to twenty-five percent of land area coverage.

G. Minimum Floor Area. Each dwelling unit in this District shall have a minimum amount of square feet usable floor area exclusive of porches, garages, basements or utility areas as follows:

- (1) One-bedroom unit, a minimum of 650 square feet per unit;
- (2) Two-bedroom unit, a minimum of 750 square feet per unit;
- (3) Three-bedroom unit, a minimum of 900 square feet per unit; and
- (4) Additional bedrooms over 3 - 100 square feet per unit.

H. Other Development Regulations – Multiple-Family Dwelling Units

1. Not less than one and one-half (1 ½) off-street parking spaces shall be required for each dwelling unit. Such parking shall be placed so as not to interfere with any recreation or service area and shall not be less than twenty-five (25') from any property lines or street right-of-way lines.
2. All areas provided for use by vehicles shall be surfaced with bituminous asphalt, concrete, gravel, or similar materials.
3. Areas for loading and unloading delivery trucks and other vehicles and for refuse collection service, fuel and other services shall be provided and shall be adequate in size and shall be so arranged that they may be used without blockage or interference with the use of access ways or automobile parking facilities.
4. Provisions shall be made for safe and efficient ingress and egress to the public streets and highways servicing the "R-2" Zoning District without undue congestion or interference with normal traffic flow.
5. All buildings within the zoning district shall be served by a public sanitary sewage disposal system and public water supply system. All utility lines (power, telephone, water, gas, cable TV) serving the "R-2" Zoning District shall be placed underground.

6. The developer shall be required, where reasonable to preserve or incorporate natural features such as woods, streams and open spaces that add to the overall development of the area.
7. The developer shall be encouraged to give consideration to the provision of community areas, laundry facilities, playground and tot lots, and other services necessary for the comfort and convenience of "R-2" residents.
8. All outside storage areas for trash shall be completely enclosed by a six (6) foot high solid wall or fence.
9. A site plan shall be submitted for each multiple family development in the "R-2" Zoning District in accordance with Article VIII of this Ordinance, and said plan shall indicate/illustrate how the requirements of this section are met.

Section 5.2 – “R-3”, High-Density Single-Family Residential District

A. Purpose

The purpose of this district and its accompanying regulations is to provide for a stable and sound environment for single-family dwelling units at a higher density. There is no intention to promote, by these regulations, a zoning district of lower quality and desirability than in the “R-1” Zoning District, although a higher density is permitted.

B. Permitted by Right

Land and/or buildings in the “R-3” Zoning District shall be used for the purposes as listed below:

- Single Family Dwellings
- Parks and Playgrounds
- Libraries
- Transient Food and Ice Cream sales vehicles
- Public and Private Educational Facilities
- Home Occupations

C. Uses by Special Use Permit

The Special Uses as listed below may be authorized in the “R-3” Multiple-Family Residential District by Special Use Permit in accordance with the procedures, provisions and standards of Article VII of this Ordinance.

- Public Facilities
- Religious Institutions
- Roof Mounted antennas for uses other than T.V. Reception- 35 feet or less and for private wireless use.
- Small Crafting Work Shops
- Home Based Business
- Caterring Business with no office or signs
- Bed and Breakfast
- Condominiums
- Rooming and Boarding Houses
- Secondary Dwelling Units for use by guests and relatives
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Area Regulations

No building or structure shall be hereafter erected, altered, or enlarged in this zoning district unless the following yards and lot area requirements are provided and maintained in connection with such building, structure, or enlargement.

1. Front Yard – There shall be a minimum front yard of fifteen (15’) feet.
2. Side Yards – There shall be a minimum side yard of five (5’) feet on each side of the building except the street side of the corner lot where a fifteen (15’) foot side yard shall be required.
3. Rear Yard – There shall be a rear yard of fifteen (15’) feet.

4. Lot Area – There shall be a minimum lot area of five thousand (5,000) square feet with a minimum width of fifty (50') feet.

E. Floor Area Regulations

Each dwelling unit in this zoning district shall have a minimum of six hundred (600) square feet of usable floor area exclusive of porches, garages, basements and utility areas.

Section 5.3 - "VC", Village Commons District

A. Purpose

The intent of this zoning district is to recognize the fact that central portions of the village are not separated into homogeneous land uses. The village developed with various land uses adjacent to one another out of necessity and prevailing development patterns at their time of development. This district recognizes this "mixed-use" characteristic of the Village Commons and is designed to authorize land uses that insure compatibility between residential and more intensive land uses.

B. Permitted by Right

Land and/or buildings in the "V" Zoning District shall be used for the purposes listed below. Buildings in the "V" Zoning District with mixed uses will be classified for zoning regulations based on the most intensive use.

Libraries

Professional Offices

All uses listed in the R-1 Zoning District

All uses listed in the CBD Zoning District

Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

C. Uses by Special Use Permit

Special Use Permit as listed below may authorize the Special Uses in the "V" Village Commons District in accordance with the procedures, provisions and standards of Article VII of this Ordinance.

Public Facilities

Rooming and Boarding Houses

Religious Institutions

Commercial Child Care Centers

All Special uses listed in the R-1 Zoning District

All Special uses listed in the CBD Zoning District

Multiple Family dwellings

Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Height, Area, Density, Floor Space, Accessory Buildings/Structures, Other Regulations, and Fences

1. Single-Family Residential Use (R-1 Use):

Shall comply with all dimensions and uses of the R-2 district in Section 5.0.

2. Multiple-Family Residential Use (R-2 Use):

Shall comply with all dimensions and uses of the R-1 district in Section 5.1 .

3. Commercial (C) Use:

a. Area Regulations

No building or structure shall hereafter be erected, altered or enlarged unless the following setback and lot requirements are provided and maintained in connection with such building, erection, alteration or enlargement.

- (1) Front Setback - There shall be a front setback of not less than twenty-five (25') feet.
- (2) Side Setback - There shall be a side setback of not less than ten (10') feet on each side of any dwelling or accessory building or structure, except on the street side of a corner lot where a twenty-five (25') foot side setback shall be provided and maintained.
- (3) Rear Setback - There shall be a rear setback of not less than twenty-five (25') feet.
- (4) Lot Area - The minimum lot area for uses in this zoning district shall be six thousand (6,000) square feet with a minimum width of fifty (50') feet and a minimum depth of one hundred-twenty (120') feet from the front lot line.

b. Other Regulations

All outside storage areas for trash shall be completely enclosed by a six (6) foot high solid wall or fence flush with the ground.

A greenbelt and/or buffer strip, as defined herein, may be required when a commercial use in this zone abuts a residential use or conservation reserve use on either of the side lot lines or the rear lot line. This may be provided as part of the side setback or rear setback requirement.

Section 5.4 - "C", Commercial District

A. Purpose

It is the intent of this zoning district to provide regulations governing use and further development of areas in the Village where there are areas of arterial road oriented commercial development. The regulations and conditions contained in this district are designed to promote the economic viability of arterial road oriented commercial areas by encouraging improved site development standards that will provide more safety and convenience for customers. The regulations in this district are also designed to ensure that development in the Commercial district will relate harmoniously to surrounding land uses.

B. Permitted by Right

Land and/or buildings in the "C" Zoning District shall be used for the purposes as listed below:

- Florist shops with greenhouses
- Contractor businesses with sales and display areas and including inside storage of supplies
- Wholesale Business with maximum gross floor area 50,000 sf
- Retail businesses with maximum gross floor area 50,000 sf
- Public and Private Postal Service-(also in CBD)
- Couriers and Messengers
- Printing and Publishing industries
- Professional Offices
- Personal Service Businesses
- Medical and Dental Offices
- Banking and Financial Businesses with drive thru
- Public and Private Educational Facilities
- Restaurants with drive thru
- Automotive Repair with no outside storage
- Religious Institutions
- Public Administration and facilities
- Multiple Family Dwelling
- Manufactured Housing Community
- Libraries
- Dwelling Above Business
- Small Scale Craft Making
- Parking associated with above uses
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

C. Uses by Special Use Permit

Special Use Permit may authorize the Special Uses designated in Article IX in the "C" Commercial District in accordance with the procedures, provisions and standards of Article VII of this Ordinance.

- Trucking and Transportation Facilities with outside storage

Veterinary Services
Marinas
Amusement Arcades
Correctional Institutions
Sexually Oriented Business
Parking associated with above uses
Planned Unit Developments
Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Area Regulations

No building or structure shall hereafter be erected, altered or enlarged unless the following setbacks and lot areas are provided and maintained in connection with such alteration, construction or enlargement.

1. Front Setback - There shall be a front setback of not less than twenty-five (25') feet, provided that where established buildings on adjacent lots vary from this minimum, a new building shall be constructed with a front setback of no less depth than the front setback of those buildings located on either side of the proposed building. This shall not be interpreted to require a front setback of more than forty (40') feet nor less than fifteen (15') feet.
2. Side Setbacks - There shall be a side setback on each side not less than twenty (20') feet in width, excepting the street side of a corner lot in which case a twenty-five (25') foot side setback shall be required. A greenbelt, as defined herein, shall be provided when this zone abuts a residential zone or the Conservation Reserve zone on either of the side lot lines. This may be provided as part of the side setback requirement.
3. Rear Setback - There shall be a rear setback of no less than thirty (30') feet in depth. greenbelt, as defined herein, shall be provided when this zone abuts a residential zone on the rear lot lines. This may be provided as part of the side setback requirement.
4. Lot Area - The minimum lot area for use in this zoning district shall be twenty thousand (20,000) square feet with a minimum width of one hundred (100') feet.

E. Floor Area

There shall be no minimum floor area in this zoning district, but there is a maximum of 50,000 square feet.

F. Other Development Regulations

All outside storage areas for trash shall be completely enclosed by a six (6) foot high solid wall or fence, flush with the ground.

The Planning & Zoning Commission, as defined herein, may require a greenbelt and/or buffer strip, when a use in this zone abuts a residential use or conservation reserve use on either of the side lot lines or the rear lot line. This may be provided as part of the side setback or rear setback requirement.

Section 5.5 – “CBD”, Central Business District

A. Purpose

The intent of this zoning district is to recognize the fact that the downtown portion of the village requires differing regulations due to the high density of structures. This district recognizes a “mixed-use” characteristic of the village and is designed to authorize mixed land uses and higher density area regulations that are consistent with the existing layout and use.

B. Permitted by Right

Land and/or building in the “CBD” Zoning District shall be used for the purposes as listed below:

- Retail Business with a maximum gross floor area of 5,000sf
- Florist shops without greenhouses
- Doctors Offices and Health and personal care businesses
- Public and Private Postal Stores
- Courier and Messenger Offices
- Publishing Business with no outside storage
- Banking and Financial Businesses with no Drive thru
- Professional Offices
- Furniture and Appliance Rental Supply Store with no outside storage (Not allowed in Village Commons)
- Restaurants without drive thru (Special Use in Village Commons)
- Upper floor residential apartments
- Parking associated with above uses
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

C. Uses by Special Use Permit

Special Use Permit may authorize the Special Uses as listed below in the “CBD” Zoning District in accordance with the procedures, provisions and standards of Article x of this Ordinance.

- Floral shops with Greenhouses
- Any business with a drive thru
- Banking and Financial Businesses with Drive thru
- Wholesale Businesses with a maximum gross floor area of 5,000sf
- Scenic and Sightseeing Businesses
- Equipment Rental Business with no outside storage
- Indoor Theaters
- Hotel, Motels-under 21 rooms
- Condominiums under 10 units
- Parking associated with above uses
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Area Regulations

No building or structure shall hereafter be erected, altered or enlarged unless the following setbacks and lot areas are provided and maintained in connection with such alteration, construction or enlargement.

1. Front Setback – Front setbacks are not required, unless the property borders the river then there shall be a twenty-five (25) foot set back from the ordinary high water mark.
2. Side Setbacks – Side setbacks shall not be required.
3. Rear Setbacks – There shall be a rear setback of no less than five (5') feet.
4. Lot Area - The minimum lot area for use in this zoning district shall be twenty-five hundred (2,500) square feet with a minimum width of twenty-five (25') feet and a minimum depth of one hundred (100) feet from the front lot line.

E. Floor Area

There shall be no minimum floor area in this zoning district.

F. Other Development Regulations

1. A site plan shall be submitted for each permitted use in this zoning district in accordance with Article XII of this Ordinance, and said plan shall indicate or illustrate how the requirements of this section are being met.
2. All outside storage areas for trash shall be completely enclosed by a six (6') foot high solid wall or fence, flush to the ground.
3. Apartments shall not be located on the first floor of any building in the CBD.
4. One parking space shall be provided for each apartment located in the CBD.

Section 5.6 - "M", Manufacturing District

A. Purpose

This zoning district is intended to accommodate the industrial needs of the village and surrounding area of Antrim County in such a manner that no unreasonable noise, dust, vibration or any other like nuisance shall exist to adversely affect any adjoining properties.

B. Use Regulations

Land and/or buildings in the "M" Manufacturing Zoning District shall be used for the purposes as listed below:

- Greenhouses, nurseries, floriculture
- Equipment storage and Support services for mining
- Building and Trade contractors
- Manufacturing, processing of agricultural crops, food, metal, wood, plastic, glass, electronics
- Bakery
- Publishing and printing
- Electronic marketing
- New and used Motor vehicle dealers
- Warehouses
- Postal Service
- Couriers and Messengers
- Automotive Repair
- Catering and Food processing Services
- Public Facilities
- Accessory Buildings
- Professional Offices
- Banking and finance institutions including drive thru
- Parking associated with above uses
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

C. Uses Permitted by Special Use Permit

Special Use Permit may authorize the Special Uses as listed below in the "M" Manufacturing District in accordance with the procedures, provisions and standards of Article VII of this Ordinance.

- Public Utility Offices and Equipment storage
- Manufacturing and Processing of Seafood, Leather and Paper
- Wholesale trade
- Gas stations
- Mobile home manufacturers
- Bulk Fuel dealers

Transportation activities
Telecommunications
Motion Picture production
Research Labs
Exterminating & Pest Control
Waste Collection/Treatment
Dry Cleaning Services
Telecommunication towers and co-located antenna's
Rental and leasing and sale of new or used vehicles
Parking associated with above uses
Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Area Regulations

No building or structure shall hereafter be erected, altered or enlarged unless the following setbacks and lot area requirements are provided and maintained in connection with such building erection, alteration or enlargement.

1. Front Setback - There shall be a minimum front setback of thirty-five (35') feet.
2. Side Setbacks - There shall be a minimum side setback of twenty (20') feet in this district except on the street side of corner lots where thirty-five (35') feet shall be required. Where an industrial district abuts a residential zone on the side, there shall be maintained a fifty (50') foot side setback on such side. A greenbelt, as defined herein, shall be provided when this zone abuts a residential zone or the Conservation Reserve zone on either of the side lot lines.
3. Rear Setbacks - There shall be a minimum rear setback of twenty-five (25') feet in this district except that where such uses abut a residential zone, a minimum rear setback of fifty (50') feet shall be provided. A greenbelt, as defined herein, shall be provided when this zone abuts a residential zone or the Conservation Reserve zone on either of its side lot lines or rear lot line.
4. Lot Area - The minimum lot area for use in this zone shall be one (1) acre with a minimum width of one hundred fifty (150') feet.

E. Floor Area Regulations

There shall be no minimum floor area requirements in this zone.

F. Other Development Regulations

1. All uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid non-combustible fence or wall at least six (6') feet in height. All business shall be conducted in such manner that no unreasonable noise, dust, vibration, odor, pollution, or any other like nuisance shall exist to adversely affect adjoining properties.

2. All outside storage areas for trash shall be completely enclosed by a six (6) foot high solid wall or fence flush with the ground.
3. Exterior yard storage shall be screened from public view or adjacent residential or commercial uses by a solid, uniformly finished and maintained, wooden or masonry wall or fence of durable material, or a well-maintained landscape screening, each of which shall be no less in height than the enclosed storage, loading activities or accessory structures or trucks, provided however, such screening with the exception of landscaping shall not exceed twelve (12) feet in height.
4. The Planning & Zoning Commission may require a greenbelt and/or buffer strip, where this zone abuts a residential use or conservation reserve use on either of the side lot lines or the rear lot line. This may be provided as part of the side or rear setback requirement.
5. A site plan, in accordance with Article X, shall be submitted for uses in this zoning district.

Section 5.7 - “CR”, Conservation Reserve District

A. Purpose

The purpose of this district and its regulations is to preserve state and village park and recreation uses.

B. Permitted by Right

Land and/or buildings in the “CR”, Conservation Reserve District shall be used for the purposes as listed below:

- Docks, Launch Ramps
- Public Soil Conservation Facilities
- Parks and Playgrounds
- Public and Private Educational Facilities
- Parking associated with above uses
- Buildings accessory to above uses
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

C. Uses Permitted by Special Use Permit

Special Use Permit may authorize the Special Uses as listed below in the “CR” Conservation Reserve District in accordance with the procedures, provisions and standards of Article VII of this Ordinance.

- Public Sports, recreation, entertainment facilities
- Transient amusement fairs, circuses
- Museums, nature parks, botanical gardens
- RV parks and camp grounds
- Transient Food and Ice Cream sales vehicles
- Telecommunication Towers and co-located telecommunication antennas
- Other unlisted uses as determined by the Planning Commission as similar to any of the above listed uses.

D. Other Regulations

There shall be no yard, lot area, or floor regulations in this zoning district.

Section 5.8 – Schedules of Regulations

Zoning District	District Name	Minimum Lot Area		Maximum Height of Structure		Minimum Setbacks			Minimum Floor Area	Outside Display (h)	Section Index
		Area	Width	Stories	Feet	Front	Side	Rear			
R-1	Single Family Residential	6,000 ft ²	50'	3	35'	25'	5' (f)	25'	800 ft ²	TP	5.0
R-2	Multiple-Family Residential			3	35'	25'	30' (b)	30' (b)	600 ft ²	NA	5.1
R-3	High Density Single Family Residential	5,000 ft ²	50'	3	35'	15'	5'	15'	600 ft ²	NA	5.2
VC	Village Commons (R-1 Use)	6,000 ft ²	50'	3	35'	25'	5' (f)	25'	800 ft ²	TP	5.3
VC	Village Commons (R-2 Use)			3	35'	40'	30' (b)	30' (b)	600 ft ²	NA	5.3
VC	Village Commons (Commercial Use)	6,000 ft ²	50'	3	35'	25'	10' (f)	25'	None	5%	5.3
C	Commercial	20,000 ft ²	100'	3	35'	25' (c)	20'	30'	None	5%	5.4
CBD	Central Business District	2,500 ft ²	25'	3	35'	None (i)	None	5'	None	(j) (g)	5.5
M	Manufacturing	1 acre	150'	3	35'	35'	20' (d)	25' (e)	None	NA	5.6
CR	Conservation Reserve	Parks, forest, open space, may include structures								TP	5.7

Regulations of Sections 5.0 through 5.7 override this section if in conflict

Schedule of Regulation Footnotes:

- (a) Exclusive of unenclosed porches, garages, basements, and patios.
- (b) When abutting residential it shall be 40' minimum
- (c) Or even with existing buildings
- (d) Must be 35' minimum on corner lots (street side) and 50' abutting residential zones
- (e) Must be 25' minimum on corner lots (street side)
- (f) On corner lots must be 25'
- (g) Waived for special community events
- (h) Percentage is based on minimum lot area
- (i) Except if lot lines border on river then a 25' setback is imposed
- (j) See Section 3.25 Outside Display of Merchandise

**ARTICLE VI
NONCONFORMING USES, BUILDINGS, STRUCTURES, AND LOTS**

Section 6.1 – Purpose

Nonconformities are uses, buildings, structures, and lots that do not conform to one or more of the requirements of this Ordinance, or any subsequent amendment, which were lawfully established prior to the effective date of this Ordinance, or any subsequent amendment. The purpose of this Article is to specify the terms and conditions under which a nonconformity is permitted to continue to exist. Nonconformity shall not be permitted to continue to exist if it was unlawful at the time it was established. To that end nonconforming uses, buildings, and structures shall be placed into two classifications, a Class A nonconformity and a Class B nonconformity. The purpose of this Article is to eliminate Class B nonconformities over a period of time, while permitting Class A nonconformities to be used, repaired, replaced, and enlarged under less stringent regulations.

Section 6.2 – Nonconforming Use Permitted; Completion of Nonconforming Buildings or Structures

- A. If the use of a building or structure or the use of the land was lawful at the time of enactment of this Ordinance, or any subsequent amendment, then that use may be continued although the use does not conform to the provisions of this Ordinance, or any subsequent amendment, under the terms and conditions of this Article.
- B. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of a building or structure on which substantial construction has been lawfully begun prior to the effective date of this Ordinance, or any subsequent amendment.

Section 6.3 – Classification of Nonconformities

- A. All nonconforming uses, buildings, and structures shall be designated either a Class A nonconformity or a Class B nonconformity. Unless designated a Class A nonconformity under subsection B, the nonconforming use, building, or structure shall be deemed a Class B nonconformity. If a Class B nonconformity is damaged or destroyed, the property owner may seek a Class A designation under subsection B after such damage or destruction. The Class B nonconformity shall then be judged for the Class A designation on the nonconformity as it existed prior to the damage or destruction.
- B. A property owner who desires that his or her property be designated a Class A nonconformity shall file an application with the Zoning Administrator requesting the designation. The application shall include the names and addresses of all people and legal entities with an interest in the property, the legal description of the property, the facts that establish the standards for approving a Class A designation have been met, and the fee as provided in Section XII of this Ordinance. After the Zoning Administrator receives a completed application, he or she shall forward the application to the Planning Commission for consideration. The Planning Commission shall then hold at least one (1) public hearing on the application. The notice of the public hearing shall be the same as for a variance before the Zoning Board of Appeals. The Planning Commission's decision whether to grant the Class A designation shall be based on written findings of fact made pursuant to the standards contained in subsection C. The Planning Commission may attach reasonable

conditions to the Class A designation to assure compatibility of the nonconforming use, building, or structure with surrounding property uses. The property owner shall receive no vested interest or rights in the Class A designation, since that designation may be revoked by the Planning Commission under subsection D.

- C. The Planning Commission shall grant a Class A designation for a nonconforming use, building, or structure if it finds that all of the following standards are met:
 - 1. The nonconforming use, building, or structure was lawful at the time of its inception.
 - 2. The continuation of the nonconforming use, building, or structure will not significantly and adversely affect surrounding properties and will not significantly depress property values in the immediate area.
 - 3. If the nonconforming structure is a sign, the nonconformity is due to dimensional regulations other than the limitation on the area of the sign surface or the limitation on the height of the sign.
 - 4. The nonconforming use, building, or structure does not significantly and adversely impact on steep slopes as regulated in Section 3.17 of this Ordinance, is not located within the greenbelt required by Section 3.18 of this Ordinance (except as otherwise permitted by Section 3.21), and is not located within a wetland regulated by the State of Michigan or as regulated in Section 3.19 of this Ordinance.
 - 5. The nonconforming use, building, or structure is of economic benefit to the Village.

- D. Upon the filing of a request by the Zoning Administrator or by the Planning Commission's own action, a Class A designation shall be revoked by the Planning Commission following the same procedures required for the initial designation upon a finding that as a result of any change of conditions or circumstances the standards for the Class A designation under subsection C no longer qualify the nonconforming use, building, or structure for the Class A designation.

Section 6.4 – Regulations concerning Class A Nonconformities

The following regulations shall apply to all Class A nonconforming uses, buildings, and structures:

- A. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a nonconforming use.
- B. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition.
- C. If a nonconforming building or structure (including a nonconforming sign) or a building that contains a nonconforming use is damaged or destroyed by any means or is removed by the property owner, then such nonconforming building or structure may be restored, rebuilt, or repaired to its original configuration and on its original foundation.

- D. A nonconforming building or structure or a building that contains a nonconforming use may be enlarged or altered in any way, provided such enlargement or alteration does not increase the degree or extent of any nonconformity or both the horizontal and vertical planes.
- E. A nonconforming use shall not be extended to any portion of the lot that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments, creating such nonconformity, unless in complete conformity with the requirements of this Ordinance. However, a nonconforming use may be extended throughout any part of a building, which was designed for such use, and which existed at the time the use became nonconforming.
- F. A Class A nonconforming use, building, or structure may be replaced by another Class A nonconforming use, building, or structure if the Planning Commission finds, following the procedures of Section 6.3.B, that the new nonconforming use, building, or structure qualifies for a Class A designation and that the new nonconforming use, building, or structure will not increase the extent or intensity of the nonconformity on the property.

Section 6.5 – Regulations concerning Class B Nonconformities

The following regulations shall apply to all Class B nonconforming uses, buildings, and structures:

- A. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a nonconforming use.
- B. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition.
- C. If a nonconforming building or structure (other than a nonconforming sign) or a building that contains a nonconforming use is damaged or destroyed by any means or any portion of the building or structure is removed by the owner to the extent that the cost of necessary repairs or reconstruction will exceed forty percent (40%) of the replacement cost of the entire nonconforming building or structure before the damage, destruction, or removal of any portion thereof, as determined by a qualified appraiser, then such nonconforming building or structure or building that contains a nonconforming use shall only be repaired, remodeled, or reconstructed in complete conformity with the provisions of this Ordinance, unless the cost of such repair, remodeling, or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure before any damage, destruction, or removal as determined by a qualified appraiser. If the cost of any repair, remodeling, or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure as specified above, then the Zoning Administrator shall require the nonconforming building or structure or building that contains a nonconforming use to be repaired, remodeled, or reconstructed in such a manner or in such location as to maximize conformity with the provisions of this Ordinance without exceeding the 150% limitation specified above.

- D. If a nonconforming sign is damaged or destroyed by any means or is removed by the owner to the extent that the cost of necessary repairs will exceed twenty percent (20%) of the replacement cost of the sign, then such nonconforming sign shall only be repaired or reconstructed in complete conformity with the provisions of this Ordinance.
- E. Except for repairs or maintenance authorized under subsections A and B above, a nonconforming building or structure or a building that contains a nonconforming use shall not be enlarged or altered, unless in complete conformity with the requirements of this Ordinance.
- F. A nonconforming use shall not be extended to any portion of the lot or extended throughout any part of a building in which it is located that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments, creating such nonconformity, unless in complete conformity with the requirements of this Ordinance.
- G. A Class B nonconforming use, building, or structure may not be replaced by another Class B nonconforming use, building, or structure. However, a Class B nonconforming use, building, or structure may be replaced with a Class A nonconforming use, building, or structure if the Planning Commission finds, following the procedures of Section 6.3.B, that the new nonconforming use, building, or structure qualifies for a Class A designation and that the new nonconforming use, building, or structure will not increase the extent or intensity of the nonconformity on the property.

Section 6.6 – Change of Nonconforming Use, Building, or Structure

If a nonconforming use, building, or structure is changed to a more conforming use, building, or structure or is replaced by a conforming use, building, or structure, the nonconforming use, building, or structure shall not revert to its original nonconforming status.

Section 6.7 – Nonconforming Lots of Record

The following regulations shall apply to all nonconforming lots of record:

- A. Except as provided in subsection B below, any lot which does not meet the dimensional requirements of the district in which it is located may be used for any purpose authorized within that district. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.
- B. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance.

Section 6.8 – Abandonment of a Nonconforming Use, Building, or Structure

If a property owner has an intent to abandon a nonconforming use, building, or structure and in fact abandons this nonconforming use, building, or structure for a period of one (1) year or more, then any subsequent use of the building, structure or property shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

- A. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
- B. Whether the property, buildings, and grounds have fallen into disrepair.
- C. Whether signs or other indications of the existence of the nonconforming use have been removed.
- D. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
- E. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

Article VII Planned Unit Development

Section 7.0 – 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:

- A. Flexibility in the regulation of land development.
- B. Encourage innovation in land use in variety and design, layout, and type of structures constructed.
- C. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
- D. 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.
- E. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the village.
- F. In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.

Section 7.1 – Area Regulations

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 area regulations.

- A. **Perimeter Setbacks.** The setback maintained along the perimeter of the PUD shall equal or exceed the required setback of the underlying zoning district, provided:
 - 1. Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than one hundred (100) feet from any adjoining or abutting property, which is in a residential zoning district.
 - 2. With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.
- B. **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, roads, 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.

- C. Height Regulations. The height of all buildings and structures within a PUD project shall not exceed the height limit of the underlying zoning district; provided, however, the Planning Commission may authorize an increase in height 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. 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. For purposes of this subsection, the height of a building or structure shall be measured from the average grade of the property at the base of the building or structure to the highest point of the building or structure.
- D. Other Dimensional Regulations. To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, reduce the other dimensional regulations, as required by the underlying zoning district, including but not limited to minimum lot size, density, 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 reductions by the Planning Commission shall be limited as follows:

1. Residential density shall not be reduced by more than thirty (30) percent of the underlying zoning district standard.
2. 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.
3. 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 has 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.
4. Prior to approving a reduction in dimensional regulations, the planning commission may require the applicant to demonstrate through bonafide 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.

Section 7.2 - Planned Unit Development Eligibility Requirements

To be eligible for a planned unit development, a parcel shall meet all of the following:

- A. The parcel shall be four (4) contiguous acres or more in area. Provided, however, if the proposed PUD will contain a mixture of residential and non-residential uses, the parcel shall be ten (10) acres or more in area. For purposes of this subsection, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customarily incidental to a residential use shall not be considered non-residential uses.
- B. The parcel on which the proposed PUD will be located shall be served by public water and sanitary sewer facilities.
- C. The parcel on which the proposed PUD will be located shall be under single ownership, or all property owners shall file the PUD application jointly.
- D. Residential PUD's without any non-residential use may be allowed in the R-1, R-2, R-3 Districts.
- E. The proposed uses within the PUD shall be consistent with the Village of Bellaire Master Plan for the subject parcel.

Section 7.3 - Pre-application Conference

- A. A pre-application conference shall be held with the Planning Commission or its representative, unless waived by the applicant, for the purpose of determining the eligibility of the proposed PUD application and to review the procedures and standards for PUD approval. The goals of the pre-application conference are to acquaint the Planning Commission, or its representative, with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, confirm that the application and all supporting documentation is ready for a public hearing, and to acquaint the applicant with the Planning Commission's initial, but unofficial reaction to the application. In no case shall any representations made by the Planning Commission, or its representative, at the pre-application conference be construed as an endorsement or approval of the PUD.
- B. A request for a pre-application conference shall be made to the zoning administrator who shall schedule a date and time for the pre-application conference. As part of the pre-application conference, the applicant shall submit five (5) copies of a conceptual plan, which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

Section 7.4 - PUD Application Requirements.

An applicant seeking approval of a PUD shall submit a complete application to the zoning administrator. The zoning administrator shall then forward the application to the Planning Commission for its review under the procedures of this section. The application shall include all of the following:

- A. A completed application form, supplied by the zoning administrator.
- B. Payment of a fee as established by resolution of the Village Council.
- C. A narrative statement describing:
 - 1. The objectives of the proposed PUD and how they relate to the intent of the zoning ordinance as described in subsection (A), above.
 - 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 construction 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. Twelve (12) copies of the development plan. If the PUD is to be developed in phases, the development plan shall show all phases. The development plan shall contain all of the following:
 - 1. Applicant's name, address, and telephone and fax numbers.
 - 2. Name, address, and telephone and fax numbers of the individual and firm who prepared the plan.
 - 3. Name of development, scale of the plan drawing, and north arrow.
 - 4. Location, shape, area and dimension of the lot, lots or acreage to be used, including a legal description of the property and the tax identification number(s) for the property.
 - 5. Present zoning of the subject property and adjacent properties.
 - 6. All public and private rights-of-way and easement lines located on and adjacent to the subject property which are proposed to be continued, created, relocated or abandoned, including the proposed use(s) and width(s) of all rights-of-way and easements.
 - 7. Location and total number of curb cuts, driveways, off-street parking spaces and loading spaces, including the dimensions of a typical parking space and the location(s) of barrier free parking spaces.
 - 8. Proposed exterior building dimensions (horizontal and vertical), gross floor area, number of floors and proposed uses.
 - 9. Location, dimensions, and uses of all existing and proposed structures, walks, malls, open areas, walls fences, screen plantings and/or other landscaping.
 - 10. Existing and proposed sewer, water and other utility lines, plus location and type of sewage treatment facility, water source, and fire hydrants.
 - 11. Required setbacks of the zoning districts.
 - 12. Area of subject property to be covered by buildings.
 - 13. Location, size, height and orientation of all signs

14. All major environmental features, such as major stands of trees and other vegetation, wetlands, flood plains, drainage ways, outcroppings, slopes of ten (10%) or more gradient, and/or other surface features.
 15. Proposed methods of surface water drainage, including surface and subsurface facilities.
 16. Location and type of proposed lighting on the site.
 17. Percentage of the total site devoted to open space and the proposed uses of that open space.
 18. Proposed PUD's that include residential uses shall include the following additional information:
 - a. Minimum floor area of dwelling units.
 - b. Total number of dwelling units proposed
 - c. Number of bedrooms per dwelling unit.
 - d. Areas to be used for open space and recreation.
- E. Such other information regarding the development area that may be required to determine conformance with this Ordinance.

Section 7.5 - Public Hearing on PUD Request; Notice

- A. Following receipt of a complete PUD application, the Planning Commission shall hold at least one (1) public hearing. Notice of the public hearing shall be given not less than five (5) or more than fifteen (15) days before the date the application for the planned unit development will be considered. The notice shall be sent via first class mail or personal delivery to all owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property being considered for planned unit development action, and to the occupants of all structures within 300 feet of the property being considered for planned unit development action. Such notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwellings units or other spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
- B. The notice shall do all of the following:
 1. Describe the nature of the planned unit development application;
 2. Describe the property which is the subject of the planned unit development application;
 3. State when and where the planned unit development application will be considered; and
 4. Indicate when and where written comments will be received concerning the planned unit development application.

Section 7.6 - Planning Commission Review of PUD.

Following the public hearing the Planning Commission shall review the PUD application and shall approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in subsection (H) below. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.

Section 7.7 - Standards for PUD Approval; Conditions; Waiver of PUD Standards.

- A. General Standards. The Planning Commission shall approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets all of the following:
1. The planned unit development shall be consistent with the Village of Bellaire Master Plan.
 2. The planned unit development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will be consistent with outdoor pedestrian movement. Vegetation proposed by the developer or required by the Planning Commission shall be maintained in a healthy living condition and such vegetation if dead shall be replaced.
 3. The planned unit development shall not change the essential character of the surrounding area, unless such change is consistent with the village's current master plan.
 4. The planned unit development shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff odors, light, glare or other nuisance.
 5. The planned unit development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements that will increase the capacity sufficient to service the development have already been scheduled for completion.
 6. The planned unit development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
 7. The planned unit development 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.
 8. The planned unit development 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 or within the development and adequate space for turning around at street ends shall be provided.
 9. The planned unit development shall not result in any greater storm water

- runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation that no longer provides erosion control shall be replaced.
10. The design of the planned unit development shall exhibit a reasonably harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
 11. The design of the planned unit development shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
 12. The planned unit development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, and drainage or erosion control.
 13. The planned unit development shall meet the standards of other governmental agencies, where applicable.
 14. Conditions. The Planning Commission may impose conditions based on the requirements of Article 12.6.
 15. Waiver of PUD Standards. The Planning Commission may waive any of the standards for a PUD contained in subsection (H)(1) above where all of the following findings are documented along with the rationale for the decision:
 - a. The spirit and intent of the PUD provisions will still be achieved.
 - b. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived
 - c. No nuisance will be created

Section 7.8 - Planned Unit Development Permit. Following final approval of a PUD application, a permit may be obtained from the zoning administrator. The issuance of this permit, however, shall not relieve the applicant from complying with applicable county, state, and federal permit requirements. The failure of the applicant to obtain any required county, state, or federal permit shall render the PUD permit issued under this subsection void.

Section 7.9 - Continuing Adherence to Approved PUD Application. Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

Section 7.10 - Recording of Action. The applicant shall record an affidavit acceptable to the village attorney with the Antrim County Register of Deeds that contains the full legal description of the project site, specifies the date of final village approval, specifies the

description or identification number which the village has assigned to the PUD project, and declares that all improvements will be carried out in accordance with the approved PUD application. If the Planning Commission approves an amendment to the PUD, the applicant shall record an amended affidavit acceptable to the village attorney that contains all of the information described above, describes the amendment, specifies the date the Planning Commission approved the amendment, and declares that the improvements will be carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Antrim County Register of Deeds and copies of recorded documents filed with the zoning administrator.

Section 7.11 - Amendment of an Approved Planned Unit Development. Amendments to an approved PUD shall be permitted only under the following circumstances:

- A. The owner of property for which a PUD has been approved shall notify the zoning administrator of any desired change to the approved PUD. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
1. Reduction of the size of any building and/or sign.
 2. Movement of buildings and/or signs by no more than ten (10) feet.
 3. Landscaping approved in the PUD plan that is replaced by similar landscaping to an equal or greater extent.
 4. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
 5. Internal re-arrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design.
 6. Changes related to items (a) through (e) above, required or requested by the Village of Bellaire, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval.
 7. All amendments to a PUD approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.
 8. An amendment to an approved PUD that cannot be processed by the zoning administrator under subsection (1) above shall be processed in the same manner as the original PUD application.
- B. **Expiration of Approved PUD; Extension.** - An approved PUD shall expire one (1) year following final approval by the Planning Commission, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:

1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
2. The PUD requirements and standards that are reasonably related to the development has not changed.

If the PUD approval expires pursuant to subsection (B) above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the planning commission following the procedures for a new PUD application.

Section 7.12 - Performance Guarantee. In connection with the development of a PUD project, the Planning Commission may require the applicant to furnish Village of Bellaire with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the village in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the PUD or which the applicant has agreed to construct even though located outside the PUD. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission, which are located within the PUD. For purposes of this subsection, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Village Clerk at or before the time the village issues the permit authorizing the PUD, or if the PUD has been approved in phases, then the performance guarantee shall be deposited with the village clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the PUD public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the PUD or each phase of the PUD in the following manner:

1. One-third of the cash deposit after completion of one-third of the PUD public and site improvements;
1. Two-thirds of the cash deposit after completion of two-thirds of the PUD public and site improvements; and
2. The balance at the completion of the PUD public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the PUD public improvements. If a PUD project is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this subsection for each phase of the PUD project. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the village as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this subsection.

Article VIII Manufactured Housing Communities

Section 8.1 - Controlling Standards: The regulations established by Michigan Public Act 96 of 1987, as amended, the Michigan Manufactured Housing Commission Rules, and the Village of Bellaire Zoning Ordinance shall govern all manufactured housing communities in the Village of Bellaire. The controlling standards of this §7.5 are not designed to generally exclude mobile homes or persons who engage in any aspect pertaining to the business of mobile homes and mobile home parks.

Section 8.2 - Preliminary Plan Review: Pursuant to Section 11 of P.A. 96, of 1987, as amended, applicant shall submit a preliminary plan to the Village for review. The preliminary plan shall include the location, layout, general design, and general description of the project. The Planning & Zoning Commission shall issue an approval/denial in writing stating all conditions. The preliminary plan shall not include detailed construction plans but shall include the following materials:

1. The applicant's name, address and telephone number and the property owner's name, address and telephone number, if different than that of the applicant.
2. Notation of all federal, state and local permits required and supporting data necessary to assure compliance with the local codes and ordinances not in conflict with the department.
3. The source and location of the water supply.
4. The proposed location and method of sewage treatment and disposal and appropriate supporting data.
5. The location of the project including the permanent parcel number(s) of the property upon which the project is proposed to be located.
6. The layout of the project including an illustration of the internal roadway system proposed and typical home site layout.
7. The general design of the proposed project including the proposed location and design of signs, trash receptacles, light fixtures, and any accessory structures, open lands and recreation areas and accessory uses.
8. The location, spacing, type and size of proposed plant materials.
9. A general description of the proposed project including the number of home sites proposed, the anticipated phasing of project development and an indication of the number of home sites to be rented and the number to be sold, if any.

Section 8.3 - Preliminary Plan Process: In preparing a preliminary plan and when reviewing such a plan, the following procedures and requirements shall apply, except where these procedures and requirements are super ceded by the requirements in PA 96 of 1987, as amended, or the Manufactured Housing Commission Rules.

1. **Application:** Any persons(s) requesting Preliminary site plan review under the provisions of this ordinance shall file an application on the forms provided by the Zoning Administrator.
2. **Pre-Application Conference:** An applicant shall meet with Village personnel including the Zoning Administrator, Village Manager, and/or Chairman of the Planning & Zoning Commission to review an application prior to filing. This pre-application conference is intended to assist the applicant and facilitate

future review and approval of the application. However, no suggestions, recommendations, or other comments made by Village personnel or consultants at such conference shall be relied on by the applicant as any indication of approval of an application or any portions thereof.

3. **Process and Review:** Completed applications accepted by the Village shall be submitted to the appropriate Village staff for written review and recommendation. The application, along with all recommendations, shall be submitted to the Planning & Zoning Commission. The staff and consultants may advise and assist the applicant in meeting the requirements, but shall have no power to approve or deny any application, or in any way restrict an applicant's right to seek formal approval thereof.
4. **Planning & Zoning Commission:** Following the review of the application and consideration of public comments and all recommendations of the staff and consultants, and pursuant to Section 11 of PA 96 of 1987, as amended, the Planning & Zoning Commission shall take action on the preliminary plan within sixty (60) days after the Village officially receives a completed application with a complete plan. The Planning & Zoning Commission shall recommend that the Preliminary Plan be approved, denied, or approved subject to conditions. The Planning & Zoning Commission may table an application for further study or to obtain additional information, provided that final action on such application is taken within the sixty-day (60) review period. Provided, further, that the Planning Commission may extend its consideration of an application beyond said sixty (60) day limitation, upon the request of the applicant.
5. **Fees and Deposits:** All applications submitted to the Village for review and a filing fee to cover the cost of processing and reviewing the application shall accompany approval. The fee shall be established by resolution of the Village Council, in accordance with Section 24 of PA 184 of 1943, as amended.
6. **Disclosure of Interest:** The full name, address, telephone number, and signature of the applicant shall be provided on the application. The applicant must be the fee owner, have identified legal interest in the property, or be an authorized agent of the fee owner. A change in ownership after the application is filed shall be disclosed prior to the public hearing or the final decision on the application. One of the following applicable disclosures shall be required:
 - a. **When Applicant is not Fee Owner:** If the applicant is not the fee owner, the application must indicate the applicant's interest in the property and the name, address, and telephone number of the fee owner(s). An affidavit of the fee owner(s) shall be filed with the application stating that the applicant has authority from the owner to make the application.
 - b. **When Applicant is a Corporation or Partnership:** When the applicant is a corporation, partnership, limited liability company, or other legal entity, and if the applicant or fee owner is an entity other than a sole proprietorship, the following information must be provided.
 - c. **When Applicant or Owner is a Land Trust:** If the applicant or fee owner is a trust or trustee thereof, the name, address, telephone number, and extent of interest of the trustees, co-trustees or successor trustees must be provided.
 - i. The name, address, and telephone numbers of all corporate officers and the resident agent of the corporation.
 - ii. The name, address, and telephone numbers of all limited liability company members and managers.

- iii. The name, address, and telephone numbers of all partners of any type of the partnership.
 - iv. As to all other legal entities, besides a sole proprietorship, the name, address, and telephone numbers of individuals having legal control and authority to make decisions for a legal entity.
7. Records: The Village shall keep accurate records of all decisions on all applications submitted pursuant to this ordinance.

Section 8.4 - Operation Requirements.

1. Permit: It shall be unlawful for any person(s) to operate a manufactured housing community unless that individual obtains a license for such operation in compliance with the requirements of Michigan Public Act No. 96 of 1987, as amended. The Village shall communicate its recommendations regarding the issuance of such a license to the Director of the Michigan Bureau of Construction Codes. The applicant shall provide the Village with a copy of its application for a license to operate a Manufactured Housing Community in the Village and the operator of the Manufactured Housing Community shall provide the Village with copies of licenses issue by the Manufactured Housing Commission pertaining to facilities within the Village.
2. Violations: If and when, upon inspection of any manufactured housing community, the Village finds that there are existing conditions or practices which violate provisions of this Ordinance or other regulations referenced herein, it shall give notice in writing by certified mail to the Director of the Michigan Manufactured Housing Commission, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the owner of the manufactured housing community or his or her agent.
3. Inspections: The County Building Inspector or another authorized Village agent is granted the authority, as specified in PA No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing community for the purpose of determining compliance with the provisions of this Ordinance or other regulations referenced herein.
4. Operation: A manufactured housing community shall not be operated until the Michigan Bureau of Construction Codes has issued a license. Buildings, which are constructed on-site, shall require a Zoning Permit prior to construction as applicable under the ordinances of the Village.

Section 8.5 - Development Standards: Manufactured housing communities shall be subject to all the rules and requirements as established and regulated by PA 96 of 1987, as amended, and the Manufactured Housing Commission rules, and shall satisfy the following minimum requirements:

1. Minimum Parcel Area: Each manufactured housing community shall be not less than fifteen (15) acres in area and shall be owned and operated as one (1) "person" as defined in PA 96 of 1987, as amended, or on a condominium basis.
2. Minimum Home site Area: The manufactured housing community shall be developed with home sites averaging Five Thousand Five Hundred (5,500) square feet per manufactured home unit. This Five Thousand Five Hundred (5,500) square feet for any one site may be reduced by up to twenty percent (20%) provided that the individual site shall be equal to at least Four Thousand Four Hundred (4,400) square feet. For each square foot of land gained through the reduction of a site below Five Thousand Five Hundred (5,500) square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R125.1946, Rule 946 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code.
3. Home Placement:
 - a. For a home not sited parallel to an internal road, 20 feet from an adjacent home, including an attached structure that may be used for living purposes for the entire year.
 - b. For a home site parallel to an internal road, 15 feet from an adjacent home, including an attached structure that may be used for living purposes for the entire year if the adjacent home is sited next to the home on and parallel to the same internal road or an intersecting internal road.
4. Obstructing Roads and Walks: It shall be unlawful to permanently or temporarily locate or park a manufactured home so that any part of such home will obstruct any roadway or walkway within a manufactured housing community.
5. Occupancy Prior to Sitting: It shall be unlawful to occupy a manufactured home or for any manufactured home to be occupied in a manufactured housing community unless the manufactured home is situated on a home site.
6. Building Permit Required: A building permit shall be issued before a manufactured home may be placed on a home site in a manufactured housing community.
7. Minimum Living Area: A manufactured home in any manufactured housing community shall contain not less than seven hundred (700) square feet of living area.
8. Maximum Building Height: The maximum height of any community or similar building shall not exceed 35 feet, or two stories in height, whichever is less. Storage or service buildings shall not exceed 15 feet, or one story in height.
9. Accessory and Site-Built Structures: Accessory and site-built structures constructed for use as management offices, public works facilities, storm shelters, storage buildings, laundry facilities, recreation or community centers, and other similar facilities shall be designed and operated for use by residents of the manufactured housing community only. Site-built structures within a manufactured housing community shall be constructed in compliance with the building codes and shall require all applicable permits.
10. Canopies and Awnings: Canopies and awnings may be attached to any manufactured home and may be enclosed for use as a sunroom or recreation

room. Canopies and awnings shall comply with the setback and distance requirements set forth in this ordinance.

11. Storage Sheds: One (1) storage shed may be permitted for each home site. Each storage shed shall comply with all Village regulations and requirements. Provided, however, the distance and setback standards of Rule 941 and 944 of the Michigan Administrative Code shall apply.
12. Recreation Vehicle Storage: Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided by the owner of the manufactured housing community, but shall be limited to use by residents of the manufactured housing community only. If proposed, the location of such storage areas shall be shown on the preliminary site plan. No part of any such storage area shall be located in any required yard on the perimeter of the manufactured housing community. Such storage area shall be screen from view from adjacent residential properties and roadways with an opaque wooden fence or masonry wall measuring six (6) feet in height above the average grade, or a landscaped greenbelt. The landscaped greenbelt, if used, shall consist of closely spaced evergreen plantings, no less than fifteen (15) feet apart, and shall provide a complete visual barrier at least six (6) feet in height above the average grade within two (2) years of planting.
13. Landscaping: The following minimum landscaping standards shall be met:
 - a. Perimeter: Perimeter screening shall be provided for any manufactured housing community that abuts an existing residential, industrial or commercial land use. No screening shall be required along any perimeter side that abuts vacant and undeveloped lands. The perimeter screening shall consist of deciduous or evergreen shrubs and/or trees, which are planted so as to form a continuous, uninterrupted wall of vegetation, which in summer, blocks all views through the vegetation so as to be a solid hedge at maturity. In the alternative, the landscaped area can be planted in the form of a single line of deciduous or evergreen trees of a type suitable to survive in the local climate and spaced no more than five (5) feet apart. The landscaped area, whether planted in shrubs or trees, must be at least three (3) feet in height at planting.
 - b. Road Frontage: The developer of a community or home condominium may completely or partially screen the community or condominium by installing fencing or natural growth along the entire property boundary line, including the line abutting a public thoroughfare, except at access points.
 - c. Home site: Landscaping shall consist of one (1) deciduous or evergreen tree for every two (2) home sites.
14. Open Space: Each manufactured housing community that contains fifty (50) or more home sites shall include an open space area equal in size to the greater of two percent (2%) of the site, or twenty-five thousand (25,000) square feet. All open space areas shall be centrally located, well drained, and accessible to all residents of the manufactured housing community. Provided, however that up to twenty-five percent (25%) of the required open space may consist of wetlands, swamps and similar areas: It is understood all development in or around designated wetlands is subject to MDEQ approval.
15. Internal Roads: An internal road is subject to approval by the department and shall be in compliance with Rules 920 and 926 as amended and all of the following general requirements:

- a. The internal road shall have a hard surface.
 - b. The internal road shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement. The easement shall be recorded before an internal road is approved by the department. Sole access by way of an alley is prohibited. As used in this subdivision, "alley" means a public or private right-of-way that serves and is dedicated as rear access to a parcel or parcels of land.
 - c. An internal road that has no exit at one end shall terminate with a turning radius of 50 feet. Parking shall not be permitted within the turning area which shall be posted within the turning area.
 - d. A safe-sight distance of 250 feet shall be provided at intersections.
 - e. An offset at an intersection or an intersection of more than 2 internal roads is prohibited.
 - f. Internal roads shall have driving surfaces that are not less than the following widths:
 - (i) no parking 21 feet.
 - (ii) parallel parking, 1 side 31 feet.
 - (iii) parallel parking, 2 sides 41 feet.
 - g. All entrances to new communities or new entrances to expanded communities shall be a minimum of 33 feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road the community's internal road and shall be constructed as follows:
 - (i) All turning lanes shall be a minimum of 11 feet in width and 60 feet in depth measured from the edge of the pavement of the public road into the community.
 - (ii) The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of 60 feet.
 - (iii) The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road and shall have a radius determined by the local public road authority. The intersection of the public road and ingress and egress road shall not have squared corners.
 - (iv) Alternative designs that provide for adequate ingress and egress shall be approved by the department.
16. Parking shall be subject to approval by the department and shall be in compliance with Rules 920 and 926 as amended and all of the following general requirements:
- a. Minimum of 1 parking space for every 3 home sites shall be provided for visitor parking. Visitor parking shall be located within 500 feet of the home sites the parking is intended to serve. The 500 feet shall be measured along a road or sidewalk.
 - b. If parking bays are provided, then they shall contain individual spaces that have a clear parking width of 10 feet and a clear length of 20 feet.
 - c. If parking facilities are provided off the home site in bays and at office or other facilities, then they shall be in compliance with R408.30427.
17. Lighting: At all internal road intersections and designated pedestrian crosswalks, the minimum illumination shall be not less than .15 foot-candles.

Internal roads, parking bays, and sidewalks shall be illuminated at not less than .05 foot-candles.

18. Mailbox Clusters: The United States Postal Service may require that clusters of mailboxes serving several home sites rather than individual mailboxes serve manufactured housing communities. If mailbox clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing community internal road and a public road.
19. Sale of Manufactured Homes: The business of selling new or used manufactured homes as a commercial operation from within the manufactured housing community shall be prohibited after complete occupancy or a new or expanded manufactured housing community has been achieved. Thereafter, a licensed dealer or broker may sell new or used manufactured homes located on home sites within the manufactured housing community to be used and occupied on that site. This section shall not prohibit the sale of a used manufactured home by a resident of the manufactured housing community provided the manufactured housing community regulations permit such activity.
20. School Bus Stops: School bus stops, if provided, shall be located within the manufactured housing community in an area that is acceptable to the school district.
21. Signs: Any and all signs, other than traffic signs subject to state law, provided within the manufactured housing community shall not exceed a height of five (5) feet measured from the average grade, and shall be set back ten (10) feet from any property line or road right-of-way.
 - a. Primary entrance: One (1) sign not to exceed an area of sixteen (16) square feet, shall be permitted at the primary access of the manufactured housing community, in accord with Article III, §3.21 of this Ordinance.
 - b. Identification: One (1) identification sign not to exceed an area of six (6) square feet shall be permitted for management offices and community buildings.
22. Trash Dumpsters: Trash dumpsters, if provided, shall be placed in a location that is clearly accessible to the servicing vehicle. Each dumpster shall be set back a minimum of fifty (50) feet from the perimeter of the manufactured housing community, and shall be placed at least fifteen (15) feet from any building within the manufactured housing community. Dumpsters shall be screened on three (3) sides with a decorative masonry wall or wood fencing not less than six (6) feet in height. The fourth side of the dumpster screen shall be equipped with an opaque, lockable gate not less than six (6) feet in height.
23. Utilities:
 - a. Fuel for Heating and Cooking: Fuel for heating and cooking shall be provided by natural gas provided by underground gas transmission mains or liquid propane gas stored in approved containers. All fuel lines servicing home sites shall be placed underground and designed in conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.

- b. Telephone and Electric Service: All telephone, electric, cable TV, and other lines within the manufactured housing community shall be placed underground.
 - c. Water and Sewer Service: All manufactured housing communities shall be served by an approved water and sewage system, which shall meet the requirements of the Michigan Department of Environmental Quality. The plumbing connections to each home site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.
24. Storm Drainage: The drainage of all exposed ground surfaces in a manufactured housing community shall, at a minimum, conform with and meet the standards of the Antrim County Drain Commissioner as promulgated in the Antrim County Drain Commissioner's standards pursuant to the requirements of MCLA 125.2311 contained in the Mobile Home Commission Act, and in conjunction with the MDEQ's Mobile Home Park Health Standards, being Part IV, R 325.3341 – R 325.3349.
25. Skirting and Anchoring: Skirting and anchoring of the manufactured home shall comply with sections R 125.1604 Rule 604 and R 125.1605 Rule 605 of PA 96 of 1987, as amended.

ARTICLE IX SPECIAL USE PERMITS

Section 9.0 - Intent

The provisions of this Article are intended to set forth the procedures and standards applicable to certain land uses, structures or activities that, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and/or the community as a whole.

Because of these characteristics, the uses of the land for certain purposes in certain districts will not be permitted without first obtaining special approval from the Planning Commission.

Section 9.1 - Applicability

For the purpose of this Ordinance special use categories are identified in §5.9 Table 3, which shall be governed by the provisions of this Article.

Section 9.2 - Procedures

- A. An application shall be submitted to the Zoning Administrator on a form for that purpose together with a site plan prepared to the specifications contained in Article X of this Ordinance. Each application shall contain the information required in Article X for a Special Use and shall be accompanied by the payment of fee as determined by the Village Council. The Zoning Administrator shall determine if an application is complete. Complete applications shall be processed further. Incomplete applications shall be returned to the applicant with a list of missing materials within 14 days of submission.

- B. Upon receipt of a complete application for a special use, a notice that the Planning Commission will hold a public hearing on the application shall be published in a newspaper which circulates in the Village and sent by mail or by personal delivery to the owners of property for which approval is sought, to all persons to whom real property is assessed within three hundred (300') feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300') feet. The notice shall be given not less than fifteen (15) days. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

The notice shall:

1. Describe the nature of the special use request.

2. Indicate the property that is the subject of the special use request.

3. State when and where the public hearing will be held.
 4. Indicate when and where written comments will be received concerning the request.
- C. In the case of Special Uses, the Planning Commission shall, within a reasonable amount of time to approve, approve with modifications and/or conditions, or disapprove the site plan in writing with reasons. The Special Use Permit shall be granted when all of the applicable standards of the Zoning Ordinance are met.
- D. The decisions of the Planning Commission shall be incorporated in a statement containing the conclusions relative to the special use under consideration that specifies the basis for the decisions and any condition imposed.

Section 9.3 - Zoning Board of Appeals Action

The Zoning Board of Appeals has jurisdiction to accept appeals of the decision of the Planning Commission with respect to special uses. The decision rendered by the Zoning Board of Appeals shall be final unless such decision is reversed or modified by a court of competent jurisdiction.

Section 9.4 - Special Use Approval Standards – General

In addition to compliance with the review standards in Article X §10.5 and with specific standards contained in §9.5 of this Ordinance, the Planning Commission shall require that the following general standards be satisfied before approving any special use:

- A. Upon review of each application there shall be a determination as to whether each use on the proposed site conforms to the following standards:
1. Will be harmonious and in accordance with the general objectives or any specific objectives of the Village of Bellaire Master Plan.
 2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
 3. Will not be hazardous or disturbing to existing or future nearby uses.
 4. Will be compatible with adjacent uses of land and will promote the use of land in a socially and economically desirable manner.
 5. Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
 6. Will not create excessive additional public costs and will not significantly decrease property values of surround properties.
 7. Will meet all the requirements and standards of this Ordinance and any other applicable laws, standards, Ordinances, and/or regulations.
 8. Shall provide a pedestrian circulation system, which is insulated as completely as reasonably possible from the vehicular circulation system.
 9. Exterior lighting shall be arranged as to deflect away from adjacent properties, not to impede the vision of traffic along adjacent streets and not unnecessarily illuminate night skies.
 10. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.

11. The proposed use will not create more traffic than presently entering the area and contribute to changing the character of the existing neighborhood.
- B. As a minimum, or unless specifically modified by the provisions of Section 9.5, the dimensional standards and landscape, buffering and parking regulations otherwise applicable to the use and/or zoning district shall be maintained as outlined within the other various applicable articles of this Ordinance. For uses permitted by right in one district, the standards relating to the district in which the use is permitted by right shall serve as the minimum standards to which the site shall be designed. In such cases where there are conflicting standards, the most restrictive shall apply, unless specifically modified by the provisions of §9.5 or the approving body.
- C. Upon review, the Planning Commission may stipulate such additional conditions and safeguards deemed necessary as referred to in §12.6.

Section 9.5 – Special Use Approval Standards - Specific

The specific requirements set forth in this section are additional requirements that must be met by certain special uses in addition to the general standards outlined or referenced in the above §9.4.

- A. The following uses shall be approved by the Planning & Zoning Commission as Special Land Uses in the districts listed in Section 5 - provided the Special Land Use General Standards and the following Specific Standards are met:

1. Home-Based Businesses or Home Professional Offices.

It is the intent of this section to provide regulations and standards to allow for the establishment and operation of home occupations as specified below. It is also the intent to prohibit certain home occupations because of incompatibility with residential districts.

- A. The proposed home-based business will be conducted on the premises and/or the premises will serve as a base of operation from which to conduct the activity off-site.
- B. The proposed home-based business will be conducted in such a manner so as to retain the residential character of the property.
- C. There will be no more than one (1) non-resident employees.
- D. The proposed home-based business will not create a nuisance in fact for surrounding properties in terms of lighting, noise, fumes, odors, vibrations, or electrical interference.
- E. No more than one (1) on-site, non-illuminated sign 4² square feet or less in area per side is erected to direct attention to the activity. The sign may be attached to the building or located in the front yard provided it meets the sign setbacks of the district.
- F. Adequate off street parking will provide for patrons, clients and all nonresident employees.
- G. Any exterior storage of materials or equipment related to the home based business including the temporary storage of waste an trash, will be screened from the view of neighboring residents and from view by the general public along public rights-of- way by vegetation, natural topographic features, fencing or other constructed visual barriers.

- H. No more than fifty percent (50%) of the floor area of the dwelling will be devoted to the home-based business.
- I. Such home occupation or home professional office shall not require external alterations or construction features, not customary to dwellings.
- J. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front setback.
- K. The proprietor of the home occupation or home professional office shall reside at the premises.
- L. There shall be no exterior use, storage, display or visible evidence of the conduct of such home occupation. This shall prohibit the exterior storage of construction materials, mechanical equipment, supplies, merchandise or any other items associated with a home occupation.

2. Gasoline/Service Stations

A. Standards - No subject facility existing on the effective date of this Ordinance shall be altered so as to provide a lesser degree of conformance with the provisions of this section than existed on said date.

- 1. All repair, lubrication and service work shall be done within an enclosed building.
- 2. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot high solid wall or fence.
- 3. The 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.
- 4. Vacuuming activities shall be at least fifty (50) feet from any adjoining property line.
- 5. 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.

B. Access Drives

- 1. No more than two (2) curb cuts shall be permitted directly from any major thoroughfare 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 road 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.
- 4. Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare onto any property used or zoned for residential purposes.
- 5. 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.

6. Automobile service stations shall not be located within five hundred (500) feet of any school.
7. Pump islands shall be a minimum of twenty-five (25) feet from any public right-of-way or lot line.
8. Automobile serve and gasoline stations shall comply with all applicable sign regulations, provided, however, the following additional regulations shall apply:
 - a. Fuel Pump Signs will be permitted with a maximum of two (2) square feet of sign area shall be permitted on each of the two (2) sides of each fuel-dispensing unit containing one (1) or more fuel dispensing nozzles. This restriction does not apply to any sign required by law.
 - b. On gas station pump canopies, logo's may be allowed if painted into the lights of the canopy, and will not be counted against the signs allowed on the property. If the logo signs are configured so they could possibly be detached they will be counted against the number of sign allowed on the property. No logo may be located outside the width of the canopy fascia.
 - c. No portable fuel price signs are permitted. Ground mounted signs may include changeable fuel price signs indicating the current price of fuel dispensed on the premises; provided the fuel price sign is erected as an integral part of the sign. The area of the fuel price sign shall be included in determining the sign area for the business.
 - d. No merchandising signs are allowed on sign posts, telephone post, etc.

3. Bed and Breakfast Establishments.

- a. The premises shall be the principal residence of the operation's owner and or operator when the establishment is active.
- b. The structure shall be erected or retained as a single-family structure. Commercial food preparation equipment and eating facilities within individual sleeping quarters shall not be installed.
- c. Meal services shall be limited to during normal and customary breakfast hours and shall be provided only to lodgers registered at the establishment, other than special events such as a wedding on site.
- d. Two (2) off-street parking spaces for the owner operator and one (1) off-street parking space per room to be rented shall be provided. When the Planning Commission finds the parking area will create an adverse effect on the neighboring property, they shall require a landscape buffer between lot and parking area.
- e. Rental of snowmobiles, ATV's, or similar vehicles, boats, and other marine equipment in conjunction with the operation of the establishment` shall be allowed if the vehicles are not stored on site.
- f. Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare spilling onto any property used or zoned for residential purposes.

- g. Compliance: All such facilities shall comply with all applicable local, county, and state building, occupant living area, plumbing, electrical, mechanical, fire and health codes.

4. Arcades, billiard parlors and other similar indoor recreation facilities.

- a. The number of arcade or game machines shall not exceed one (1) machine per each thirty (30) square feet of floor area.
- b. The facility shall be fully and adequately lighted for easy observation of all areas of the premises.
- c. Walls of the facility shall be soundproofed to absorb the noise generated within.
- d. At least one (1) public telephone shall be provided.
- e. No amplified music shall be audible on the exterior of the premises.
- f. The premises shall be continuously maintained in a safe, clean and orderly Condition.
- g. Bicycle storage racks shall be maintained off the public sidewalk to adequately accommodate bicycles utilized by arcade patrons.

5. Transportation freight terminals and yards, public utility and private contractor storage and service yards in association with special services requiring bases of operation and outdoor storage of equipment and materials, excluding the major repair of equipment.

- a. 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.
- b. A greenbelt and/or buffer shall be required along all property lines.
- c. Repair of vehicles shall be done within a totally enclosed building.
- d. The storage of vehicle parts or inoperable vehicles shall be done within an enclosed building.
- e. Except for visitor parking, operable vehicle parking and storage shall be within a fenced area.
- f. Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare spilling onto any property used or zoned for residential purposes.

6. Truck terminals.

- a. Minimum lot size shall be five (5) acres.
- b. The lot location shall be such that at least one (1) property line abuts a paved primary street. The ingress and egress for all vehicles shall be directly from said thoroughfare.

- c. The main and accessory buildings shall be set back at least seventy five (75) feet from all property lines.
- d. 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.
- e. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

7. Outside storage yards of construction contractor's equipment and supplies, building materials, sand, gravel, or lumber.

- a. All outdoor storage shall be located in the rear yard only and shall be fenced with a six (6) foot high fence or screen wall, according to fencing regulations of zoning district.
- b. All outdoor storage yards shall be paved or provided with a durable, dustless surface approved by the Planning Commission.

8. Automobile Dealers, Other Motor Vehicle Dealers, Automotive Rental and Leasing, and Manufactured Home Dealers

- A. In all districts where the outside display or storage of vehicles for sale is permitted, such display shall be allowed only as an accessory use to the main use on the same lot or tract of land. The requirements of this section in reference to zoning regulations, such as set backs, etc., will override the zoning district requirements.
- B. In all districts where the outside display of goods is permitted, such 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 shall not be required to be screened.
- C. 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.
- D. Mobile property may be displayed in the side and rear setbacks up to five feet (5') of the property line. If property is adjacent to residential property, then the district set back shall remain in effect for that side of the property.
- E. Mobile property may be displayed in the front yard setbacks up to ten feet (10') of the front property line.
- F. 10% of the open space of the property must be left open for customer parking. Driveway area may not be counted in the 10% open space for parking.
- G. No outside display shall 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.
- H. 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." This does not include security lighting. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any property used or zoned for residential purposes.
- I. Outside equipment must be displayed in rows with at least 2 feet between display items.
- J. Repair vehicles or vehicles used for parts only, must be moved off the lot within 30 days of arrival.

9. Secondary Dwelling Units.

The purpose of this section is to allow a minor amount of space on a lot or within a dwelling to be rented or leased as separate living quarters for extended family or non-family members in all residential neighborhoods within the village. The following regulations shall apply:

- a. One (1) secondary dwelling unit is allowed per lot.
- b. The secondary dwelling unit shall be rented or leased so the tenants are permanent residents rather than transients, with a month-to-month lease.
- c. The secondary unit shall not exceed 600 square feet, so that it remains an accessory use to the primary dwelling and does not result in the creation of a duplex or apartment building.
- d. The secondary dwelling unit shall be provided electricity, plumbing, and heat in addition to being serviced by municipal water and sewer. Utilities shall not be metered separately from the primary residence.
- e. The secondary unit shall contain only one (1) bedroom.
- f. The secondary unit shall not be located in the front yard.
- g. The secondary unit shall be a self-contained unit and may be located above a garage or may be attached to the primary dwelling or garage or located totally within a primary dwelling. The secondary unit shall not solely constitute a separate standing building.
- h. The secondary unit shall have a separate exterior entrance that shall not be visible from the front yard.
- i. The residents of the primary structure shall maintain the secondary unit and shall ensure that no excessive noise, traffic, or blight occurs on the property.
- j. The secondary unit shall conform to Antrim County building code standards.
- k. An owner is to occupy either the principal dwelling unit or the secondary suite if located in the R1 Zoning District.

10. Vehicle major and minor repair facilities.

1. In locations where the use abuts a Residential District or use the Planning Commission may require additional screening or landscaping to minimize any potential adverse effects, such as noise, dust, odor, etc.
2. No outside storage of parts and/or materials shall be allowed unless contained with a totally screened area, six (6) feet in height using an evergreen hedge or other natural landscaping, or if specifically approved by the Planning Commission, a solid uniformly painted fence or wall. Any screening materials, landscaping, fence, or wall shall be maintained in good condition.
3. No more than six (6) vehicles shall be within the outdoor storage area.
4. When located within an integrated group of establishments served by a common parking area, the use shall be located on the periphery to prevent vehicular obstructions or pedestrian movement conflicts and shall be designed to integrate the use with the site plan and architecture of the other establishments.
5. No outside storage of parts and/or materials shall be allowed.

11. Restaurants or other establishments serving food and/or beverage using drive-in windows.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Vehicles not using the drive-through portion of the facility shall locate stacking spaces so as not to interfere with vehicular circulation and egress from the property.
2. 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.
3. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

12. Mineral mining and extraction operations

Intent and Purpose: It is the intent and purpose of this section to promote the underlying spirit and intent of the entire Zoning Ordinance, but at the same time allow for the extraction of minerals in locations where they have been naturally deposited, and to insure that mineral mining activity shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use, and, to insure that mineral mining activities are consistent with the public health, safety and welfare of the Village.

- a. Use Restriction. Mineral mining and extractive operations may be considered as a special use in the Commercial Zoning District. The extraction, removal, and/or processing of sand, gravel, stone and/or other mineral mining in the Village shall be prohibited unless first authorized by the grant of a special approval use application by the Planning Commission in accordance with this section.
- b. Exemption. Usual and customary land balancing by cutting and filling, in preparation for immediately planned and approved development in accordance with this and all other applicable ordinances and law, shall be exempted from the provisions of this section.
- c. Application. An application shall be filed with the Zoning Administrator and shall include the following:
 1. Site plan prepared in accordance with Article XIII.
 2. Duration of proposed operation, and location, timing, and any other relevant details with respect to the phasing and progression of work on the site.
 3. Land use study/drawing showing the existing land uses with specification of type of use, e.g., single-family residential, multiple-family residential, retail, office, etc., and density of individual units in areas shown, including.
 4. Geological/hydrological/engineering survey prepared by appropriate and qualified experts.
 5. Description of the vehicles, machinery and equipment proposed for use on the property, specifying with respect to each, the anticipated noise and vibration levels.

Reclamation. Reclamation of the site shall be in accordance with a reclamation plan approved by the Planning Commission as part of the application review process. There shall be no final slopes having a grade in excess of a minimum ratio of one (1) foot vertical to five (5) feet horizontal, and, for permanent water areas, for a distance of not less than ten (10) feet nor more than fifty (50) feet, the submerged slopes shall be graded from the water's edge at a grade not in excess of a minimum ratio of one (1) foot vertical to seven (7) feet horizontal; the entire site shall be planted with sufficient vegetation so as to sustain short and long term growth, in order to avoid erosion and washout, and, to the extent necessary to achieve this objective, suitable soils shall be placed on the property; and, all structures, machinery, equipment and improvements shall be removed from the site, unless, following approval of the Planning Commission the same are deemed consistent with the zoning district in which the site is situated. The Planning Commission shall have the right to impose performance bonds or letters of credit to insure that the reclamation and restoration plans as submitted are implemented.

13. Telecommunication Tower or Alternative Tower Structure

PURPOSE AND INTENT: The purpose and intent of the Section of this ordinance pertaining to wireless telecommunication 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:

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

a. Application Requirements. The following information shall be provided in support of an application to construct a wireless telecommunication tower:

- (1) Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse.
- (2) 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.
- (3) 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.
- (4) 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.

b. 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.

c. 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.

d. 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.

e. 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.

f. 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.

g. 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.

- h. 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.
- i. 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.
- j. Interference with Residential Reception.** Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
- k. Signs.** No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower.
- l. 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.
- m. 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.
- n. 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.

14. Public and Semi-Public Institutional Uses.

The Planning & Zoning Commission shall only issue a special use permit for institutional structures and uses as designated in Section 5.9 Table 3 that must comply with the following site development standards:

1. All development permitted under the provisions of this section shall conform to the applicable site development requirements contained in Article X.
2. Public and Semi-Public Institutional uses located in the Central Business District (CBD) shall conform to the requirements of that district.
3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare spilling onto any property used or zoned for residential purposes.
4. Except for ingress and egress locations, parking lots shall be surrounded by the buildings they serve, a greenbelt, a fence meeting the requirements of Section 3.20 of this Ordinance and/or a buffer strip. The buildings, greenbelt, fence, and/or buffer strip shall be designed and located so as to not pose a safety hazard for vehicles entering or leaving the parking area.

15. Sexually Oriented Business

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.

- a. 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.
- b. 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.
- c. 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.
- d. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.
- e. 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.
- f. 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 roadways.

- g. 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.
- h. 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."
- i. 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 roadway or a neighboring property.
- j. Hours of operation shall be limited to 8:00 AM to 12:00 AM, Monday through Saturday.
- k. 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.
- l. 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:
 - (1) Is handicap accessible to the extent required by the Americans With Disabilities Act;
 - (2) Is unobstructed by any door, lock or other entrance and exit control device;
 - (3) 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;
 - (4) Is illuminated by a light bulb of wattage of no less than 25 watts;
 - (5) Has no holes or openings in any side or rear walls.

Section 9.6 - Appeal Process for Sexually Oriented Businesses

The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business.

- A. 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 §9.5(A)(14)(L). 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.
- B. 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:
 1. 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;
 2. 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.

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.

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 9.7 - Reapplication

No application for a special use permit which has been denied wholly or in part shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of the newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the Planning Commission.

Section 9.8 – Revised Special Use Permits

A. Revised Special Use Permits

A revised Special Use Permit is required when any of the following is proposed:

1. Alter exterior dimensions of principal building(s).
2. Increase of impervious surface and/or parking requirements.
3. Significant changes to the original application and approval conditions as determined by the Zoning Administrator.

B. Multi-Use Lots and/or Buildings: Bed & Breakfasts, Home Based Businesses, and Home Professional Offices:

A Revised Special Use Permit is required only if the proposed changes will alter the portion of the building and/or lot utilized for the Special Use. A Revised Special Use Permit is not required if the proposed changes will affect only the residential portion of the building or lot.

C. Approval Process:

The procedure for approval for a Revised Special Use Permit shall be the same as the procedure for the original Special Use Permit as described in Section 9.2. If the Zoning Administrator determines that the change is not minor, the Planning & Zoning Commission at a regular meeting, without a public hearing may approve the changes to the original application if it is due to business growth and the special use permit was issued more than 5 years ago. This approval process will be used if the decision can be made by in a thirty-minute time frame before the Planning Commission.

Section 9.9 – Expiration of Special Use Permits

- A. An approved Special Use Permit shall expire one (1) year following approval by the Planning & Zoning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, or the property owner applies to the Planning Commission for an extension prior to the expiration of the Special Use Permit. The Planning Commission may grant one (1) extension of a an approved Special Use Permit for an additional one (1) year period if it finds:
 - 1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
 - 2. The requirements and standards for Special Use Permit approval that is reasonably related to the development has not changed.
- B. If the Special Use Permit expires pursuant to subsection A above, no work pursuant to the Special Use Permit may be undertaken until a new Special Use Permit is obtained from the Planning Commission following the procedures for a new Special Use Permit.

**ARTICLE X
SITE PLAN REQUIREMENTS AND REVIEW**

Section 10.0 – Purpose

It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is a value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources such as wetlands, waterfronts, slopes and by controlling our stormwater.

Section 10.1 – Types of Site Plans

Every application for a zoning permit shall include a site plan, drawn according to the specifications of this article. A demand for appeal before the Zoning Board of Appeals shall include a site plan drawn according to the specifications of this article. The Zoning Administrator shall review the site plan prior to issuing a zoning permit, or the Zoning Administrator shall transmit the site plan to the Planning Commission for their review.

There shall be three levels of site plans for different complexities of proposed land uses:

1. Basic Site Plan

[Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

- a. A basic site plan is subject to review by the Zoning Administrator for the following uses:
 - (A). Single-family or two-family residential units.
 - (B). Additions to single-family or two-family residential units.
 - (C). Construction of accessory structures to a single-family or two-family residential unit.
 - (D). Expansion or renovation of an existing use which increases the existing floor space twenty five (25%) percent or less.
- b. A basic site plan is subject to review by the Planning Commission for a community garden.

2. Commercial Site Plan – reviewed by the Planning Commission.

- a. Any permitted principal use or accessory structure by right (which is not a single-family dwelling, addition to a dwelling, or accessory structure to a dwelling).
- b. Expansion or renovation of an existing use, other than single-family or two-family residential use, which increases the existing floor space more than twenty-five (25) percent.
- c. Changes of a principal use that does not meet the requirements of 10.1B (d) for an existing structure or lot, except in those circumstances as stated in §10.13 (B).
- d. For any matter before the Zoning Board of Appeals which would not need a detailed site plan.
- e. Accessory structures other than those for single or two family units.

3. Detailed Site Plan - reviewed by Planning Commission

- a. Special Use

Section 10.2 – Site Plan Required Data

A. Basic Site Plan – The Basic Site Plan shall be a sketch, drawn to scale, or superimposed on an air photo, or superimposed on a survey, of the parcel. The following shall be on the Basic Site Plan:

1. The property, identified by parcel lines, location and dimensions.
2. Name and address of the property owner(s), developer(s), and their interest in said properties.
3. The scale and north arrow.
4. Natural features such as woodlot, water bodies, wetlands, high risk erosion areas, slopes over 25%, drainage and similar features.
5. The location of proposed main and accessory buildings, existing structures, fences on the site, signs of type and the dimensions, height and square footage of all buildings.
6. The proposed driveway, if any.
7. All public and private rights-of-way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, relocated or abandoned.
8. Required setbacks of the zoning district.
9. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
10. Show any changes or modifications required for any applicable regulatory agencies' approvals.

B. Commercial Site Plan – The site plan shall be drawn to scale and shall be on paper, which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the Zoning Administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the Zoning Administrator upon the determination that the requirements waived are not reasonably related to the proposed use. The Commission, upon review of the site plan, may act to require any information specifically waived by the Zoning Administrator to be submitted. The applicant or his/her representative shall be present at each scheduled review or the matter shall be tabled for a maximum of two consecutive meetings due to lack of representation. After two-tabled meeting, the applicant must re-apply and repay for the zoning permit and it must be re-noticed if notice occurred on the original application.

1. All the data required for a Basic Site Plan, spelled out in §10.2(A) of this Ordinance.
2. The parcel's legal description.
3. Boundary dimensions of natural features such as woodlot, water bodies, wetlands, high risk erosion areas, slopes over 25%, drainage, and similar features.
4. Area of subject property to be covered by buildings.

5. Location and dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, and storm water drainage and retention lines.
6. Location and dimensions of all existing and proposed walks, malls, open areas, walls, fences, screen plantings and/or other landscaping. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.
7. Location of curb cuts, neighboring driveways and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes, service parking and snow storage areas.
8. Any proposed alterations to the topography and other natural features shall be indicated.
9. Any proposed location of connections to existing utilities and proposed extensions thereof.
10. A description of the proposed development.
11. A vicinity map showing the location of the site in relation to the surrounding street system.
12. Land uses, zoning classification and existing structures in the subject parcel and adjoining parcels.
13. Written statements relative to project impacts on existing infrastructure (such as traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.
14. Location, height, and orientation of all signs.
15. Existing topographic elevations at two (2) foot contour intervals (indicates direction of drainage flow).
16. Locations and elevations of existing water courses and water bodies, including county drains and surface drainage ways, floodplains, and wetlands.
17. Proposed storm water management plan including design of sewers, outlets, and retention or detention ponds. Sufficient data regarding site runoff estimates and off-site drainage patterns shall be provided to permit review of the feasibility of stormwater detention and/or retention as well as the impact on local surface and groundwater.
18. Location and status of any floor drains in structures on the site. The point of discharge for all drains and pipes shall be specified on the site plan.
19. Description and location of any existing or proposed outdoor storage facilities (above ground and below ground storage).
20. Description and location of on-site wastewater treatment and disposal systems.
21. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
22. Location of existing and proposed private drinking water wells, monitoring wells, test wells, irrigation wells, or wells used for industrial processes. Village of Bellaire Department of Public Works must sign off on this portion of the plan.

23. Site plans for residential projects (multiple family developments and manufactured home parks) shall include the following additional information:
 - a. Minimum floor area of dwelling units.
 - b. Total number of units proposed.
 - c. Number of bedrooms per unit in multiple family developments.
 - d. Areas to be used for open space and recreation.
- C. **Detailed Site Plan** - A site plan which shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the Zoning Administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The Commission, upon review of the site plan, may act to require any information specifically waived by the Zoning Administrator to be submitted. Such site plan shall be designed, prepared and sealed by a registered professional architect, landscape architect, engineer, land surveyor, or community planner (or, if acceptable to the Commission, owner or other qualified individual). The applicant or his/her representative shall be present at each scheduled review or the matter shall be tabled for a maximum of two consecutive meetings due to lack of representation. After two-tabled meeting, the applicant must re-apply for the zoning permit and it must be re-noticed if notice occurred on the original application. Unless so waived, all Detailed Site Plans shall include the following information:
 1. All the data required for a Basic Site Plan, set forth in §8.2(A) of this Ordinance, and for a Medium Site Plan, set forth in §8.2(B) of this Ordinance.
 2. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.
 3. The location, proposed finished floor and grade line elevations.
 4. Site plans for residential developments shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
 5. Any proposed roads, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site;
 6. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of topography.
 7. Generalized soil analysis data regarding the soils and their adaptability to the use. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of soils.
 8. Soil erosion and sediment control measures, which shall include preventative soil erosion devices or measures, both during and after any site work, related to the development, when required.

Section 10.3 – Site Plan Review Standards

The Planning & Zoning Commission in reviewing all site plans shall utilize the following standards. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation. The site plan will be approved when all of the following standards are met. The Planning & Zoning Commission may waive a standard when it finds that the standard is not applicable to the development under consideration.

- A. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
- B. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the village.
- C. Removal or alteration of significant natural features shall be restricted to those areas that are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning & Zoning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
- D. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- E. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes. Any buffer required shall be completely solid to the ground level.
- F. All buildings and groups of buildings and outside display of property shall be arranged so as to permit necessary emergency vehicle access.
- G. All streets shall be developed in accordance with the Village of Bellaire Standards, Specifications and Regulations for Subdivision Streets and Proposed Public Roads, as appropriate. In addition, sidewalks may be required if determined to be necessary or appropriate for pedestrians and non-motorized vehicles.
- H. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater and to prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.

- I. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of building or structures shall be minimized to reduce light pollution.
- J. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts of public streets shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height and solid to the ground. The finished side of any wall, fence, or other screen shall face adjacent properties.
- K. Entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of entrances to and exits from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.
- L. Site plans shall conform to all applicable requirements of county, state, and federal statutes and ordinances. Approval may be conditioned on the applicant receiving all other necessary permits before final site plan approval is granted.
- M. Appropriate fencing may be required around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.

Section 10.10 – Site Plan Approval

The Planning & Zoning Commission has the authority to attach conditions (refer to §12.6) to the approval of any site plan and/or to require the placement of greenbelts, buffers, and/or open space as deemed necessary.

- A. In cases where the Zoning Administrator reviews the site plan; within a reasonable time of the site plan being found complete and site staked out, the Zoning Administrator shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
- B. In cases where the Planning Commission reviews the site plan; within a reasonable time of the site plan being found complete, the Commission shall act to approve, approve with modifications and/or conditions, or disapprove the site plan in writing with reasons.
- C. The site plan shall expire unless substantial construction of an approved site plan improvement has begun within 365 days of approval. Thirty days prior to expiration of an approved site plan, an applicant may make application to the Planning Commission for a one-year extension of the site plan at no fee. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the site plan approval have not changed since the approval. Any subsequent re-submittal, however, shall be processed as a new request with new fees.
- D. If a condition of a zoning permit approval requires a deed restriction, the deed restriction must be recorded and an official copy provided to the Zoning Administrator before the permit is issued.

Section 10.11 – Amendments to an Approved Site Plan

- A. Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- B. The Zoning Administrator who shall notify the Planning Commission of the minor change in their next monthly report. They may approve a minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- 1. Reduction of the size of any building up to 10%.
 - 2. Reduction of the size of any sign.
 - 3. Changes in lighting that does not adversely affect the surrounding area.
 - 4. Similar types of landscaping may replace Plantings approved in the site plan landscape plan.
 - 5. Changes of building materials to a higher quality.
 - 6. Changes in floor plans that do not alter the character of the use or building size.
 - 7. Internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design.
 - 8. Changes that will preserve the natural features of the site without changing the basic site layout.
- C. Any change not considered a minor amendment as defined in §8.7 (B) is considered a major amendment and the approved site plan must undergo the entire site plan approval process. Site plan changes required by any applicable regulatory agency shall undergo the procedures established in this Ordinance for minor and major amendments to an approved site plan. Site plan changes required by any applicable regulatory agency after the Commission issues a Special Use Permit shall also be changed in accordance with procedures established in this Ordinance for minor adjustments or amendments to Special Use Permits.

**ARTICLE XI
ZONING BOARD OF APPEALS**

Section 11.0 - Purpose

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Village Zoning Board of Appeals.

Section 11.1 – Membership

- A. The Bellaire Village Council shall appoint a Zoning Board of Appeals consisting of five (5) members. Each member of the Zoning Board of Appeals shall serve for a term of three (3) years, except that for the first appointments two (2) members shall serve for a term of two (2) years and one (1) member shall serve for a term of one (1) year. Members of the zoning Board of Appeals shall be residents of the Village.
- B. The Bellaire Village Council shall appoint two (2) alternate members of the Zoning Board of Appeals for three (3) year terms, except that for the first appointments one (1) alternate member shall serve for a two (2) year term. The alternate members shall be called on a rotating basis, by the chairperson of the Zoning Board of Appeals, to sit as regular members in the absence of a regular member or when a regular member has abstained from participating in a case for reasons of conflict of interest. An alternate member called to sit, as a regular member shall serve in the case until a final decision has been made and shall have the same voting rights as regular members of the Zoning Board of Appeals.
- C. The Bellaire Village Council may remove a regular or alternate member of the Zoning Board of Appeals for neglect of duty or misconduct in office following written charges and a public hearing before the Village Council.

Section 11.2 - Rules of Procedure

- A. The Board shall adopt rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Village Clerk.
- B. Meetings of the Board shall be open to the public and shall be held at the call of the Chairman and at such times as the Board may determine necessary.
- C. The Board shall act by resolution or motion. The concurring vote of a majority of the members of the entire Board shall be necessary to reverse an order, requirement, decision, or determination of the Zoning Administrator or the Planning & Zoning Commission to decide in favor of an applicant on any matter upon which the Board is required to pass under this Ordinance, or to grant a dimensional variance under the Ordinance; provided, however, that concurring vote of 2/3 of the members of the Board shall be necessary to grant a variance from uses of land permitted in this Ordinance.
- D. Records - Minutes shall be recorded of all proceedings that shall contain evidence and data relevant to every case considered together with the votes of the members

and the final disposition of each case. The grounds of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall become a public record and as such be filed in the office of the Village Clerk. A copy of the decision shall be sent promptly to the applicant and the Zoning Administrator.

- E. Secretary and Counsel – Except when the Zoning Board of Appeals is deciding an appeal from a decision of the Zoning Administrator, the Zoning Administrator shall be responsible for acting as secretary of the Zoning Board of Appeals and providing administrative services for the Zoning Board of Appeals. In cases involving an appeal from a decision of the Zoning Administrator, the Village Clerk shall act as secretary and provide administrative services for the Zoning Board of Appeals. The Village attorney may be requested to attend any meeting of the Zoning Board of Appeals.

Section 11.3 - Duties and Powers of the Zoning Board of Appeals

- A. Review** - Shall hear and decide appeals from any review, any order, requirement, interpretation, decision or determination made by the Zoning Administrator in the administration of this Ordinance. Provided, however, the Zoning Board of Appeals shall not have jurisdiction to hear appeals made by the Zoning Administrator concerning administrative decisions whether to take enforcement action for alleged violations of this Ordinance.

- B. Interpretation - Shall have the power to:**

- 1. Hear and decide upon appeals for the interpretation of the provisions of this Ordinance;
- 2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision on such subject made by the Zoning Administrator.

- C. Dimensional Variances** - The Zoning Board of Appeals shall have the power to authorize specific dimensional variances from the requirements of this Ordinance if it finds based upon competent, material, and substantial evidence following a public hearing that all of the applicable standards provided in this section have been met.

- 1. Standards for Dimensional Variances: To obtain a variance from the dimensional requirements of this Ordinance (area, setback, frontage, height, bulk, density or other dimensional requirements) the applicant must demonstrate that a practical difficulty exists by showing all of the following:
 - a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant's personal or economic hardship.
 - b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

- c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
- d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.

That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

D. In addition to the foregoing conditions, the following rules shall be applied in the granting of variances:

1. In granting a variance the Zoning Board of Appeals may specify, in writing, to the applicant such conditions in connection with the granting that will, in its judgment, secure substantially the objectives of the regulations or provisions to which such variance applies. The breach of any such condition shall automatically invalidate the variance granted.
2. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.
3. After a variance has been granted, the applicant is still required to obtain a zoning permit for the project from the Zoning Administrator.
4. An approved variance shall expire unless substantial construction of the development or structure authorized by the variance has begun within one (1) year from the date of approval of the variance. Thirty (30) days prior to expiration of an approved variance, an applicant may make application to the Zoning Board of Appeals for a one (1) year extension of the variance at no fee. The Zoning board of Appeals shall grant the requested extension for an additional one (1) year, if it finds good cause for the extension and that the zoning regulations governing the variance have not changed since the approval.

Section 11.4 - Procedures

- A. An officer or board of the Village or any person aggrieved may file appeals to the Zoning Board of Appeals.
 - B. Finance Guarantee – Any party or entity bringing an appeal to the Zoning Board of Appeals may be required to post a financial guarantee to the Village as designated in Section 12.4 (B) of the Bellaire Zoning Ordinance.
 - C. Time Limit - Any appeal from a ruling of the Zoning Administrator shall be made within thirty (30) days after receipt of the ruling. The person making the appeal must file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all the papers concerning the case being appealed.
 - D. Public Notice Requirements – Following receipt of a written request concerning an appeal of an administrative decision, a request for an interpretation of the Zoning Ordinance, or a request for a variance, the Zoning Board of Appeals shall hold a public hearing, after giving the following applicable notice:
 - 1. For an appeal of an administrative decision or variance request, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the village and shall be sent to the person filing the appeal and to the zoning administrator or other administrative agency or official whose decision is being appealed no less than fifteen (15) days before the public hearing. In addition, if the appeal involves an interpretation of the zoning ordinance or a specific parcel, written notice stating the nature of the appeal and the time, date, and place of the public hearing on the appeal shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- The Zoning Board of Appeals may recess such hearings from time to time; further notification of persons within 300 feet of the premises shall not be required.
- E. Decisions - The Zoning Board of Appeals shall return a decision upon each case within a reasonable time after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned. Decisions made by the Zoning Board of Appeals will be forwarded, in writing, to the appealing party and the Zoning Administrator.
 - F. Representation - Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

Section 11.5 - Stay of Proceedings

An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to circuit court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator

certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the circuit court. However, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this Ordinance.

ARTICLE XII

ZONING ADMINISTRATION AND ENFORCEMENT

Section 12.0 - Administration

The provisions of this Ordinance shall be administered by the Bellaire Village Council in accordance with the State of Michigan, Village Zoning Act, Act 207, of the Public Acts of 1921, as amended.

The Bellaire Village Council shall employ a Zoning Administrator to act as its officer and except as otherwise provided in this Ordinance, the Zoning Administrator shall administer and enforce this Ordinance, including the receiving and processing of applications for zoning permits, special use permits, sign permits, appeals for variances or other matters the Zoning Board of Appeals or Planning Commission is required to decide. The Administrator shall also be responsible for the inspection of premises, the issuance of zoning permits and institution of proceedings for the enforcement of the provision of this Zoning Ordinance. The Bellaire Village Council may also appoint a Deputy Zoning Administrator.

Section 12.1 - Zoning Permits

It shall be unlawful for any person to commence excavation, or clearing of vegetation on a lot for any building or structure or to commence the erection, addition, alteration or repair of any building, structure; and no land use shall be commenced until a zoning permit has been secured from the Zoning Administrator. Except upon a written order of the Zoning Board of Appeals, no such zoning permit shall be issued for any building where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this Ordinance. Exempted from the permit requirements are exterior alterations and ordinary maintenance repairs that do not require a building, mechanical, electrical or plumbing permit.

Information contained on an issued zoning permit shall not be altered or rewritten in any manner by anyone except the current Zoning Administrator or Deputy Zoning Administrator. Any alteration by an individual other than the current Zoning Administrator or Deputy Zoning Administrator shall automatically invalidate the permit. A new application shall then be filed along with the payment of a new fee upon which a new zoning permit shall be issued.

An approved Land Use Zoning Permit or granted use or dimensional variance shall expire one (1) year following approval and issuance unless substantial construction has begun pursuant to the permit, unless prior to the expiration of the permit or the property owner applies for and receives an extension from the Zoning Administrator prior to the expiration of the permit.

Section 12.2 - Zoning Permit Application

Application for a zoning permit shall be filed in writing with the Zoning Administrator, signed by the person, firm, co-partnership or corporation requesting the same or by the duly authorized agent of such person, firm, co-partnership or corporation. In the instance of a duly authorized agent, a notarized letter from the property owner giving authorization to secure the permit shall accompany the zoning permit application. There shall be submitted with all applications for zoning permits one (1) copy of a site plan, giving accurate dimension on a scale drawing. The following information shall be submitted with the zoning application:

1. Existing and intended use of the structure.
2. Lines and dimensions of the lots to be used.
3. Location upon the lot of all existing and proposed structures and any streets bordering the property.
4. Application for zoning permits under the provision of this Ordinance shall be accompanied by evidence of ownership of all property affected by the coverage of the permit.
5. The Zoning Administrator may require other information with respect to the proposed structure, use, lot and adjoining property.

The Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance.

Any permit required by this Zoning Ordinance shall be displayed face out, within twenty-four (24) hours of its issuance by placing the same in a conspicuous place on the premises facing the nearest street and shall be continuously so displayed until all work is completed.

Section 12.3 – Inspections

No zoning permit will be issued by the Zoning Administrator without first conducting a site inspection. It is the responsibility of the applicant to have all property lines and building sites marked on the ground and to notify the Zoning Administrator of such.

Section 12.4 - Posting of Financial Guarantee

The Village is empowered to require a performance bond, irrevocable bank letter of credit or certified check in an amount up to or equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Village at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance guarantee shall be forfeited. The Village shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvement completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where provisions of this Ordinance have not been met, the amount of the aforementioned performance guarantee shall be used by the Village to complete the required improvements; and the balance, if any, shall be returned to the applicant.

Section 12.5 - Fees

- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Village, the Village Council may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:

1. Zoning permits.

2. Special use permits.
3. Requests for classification of property.
4. Appeals to or requests for interpretations by the Zoning Board of Appeals.
5. Appeals and requests for interpretations initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
6. Requests for variances from the Zoning Board of Appeals.
7. Requests for rezoning of property by individual property owners or amendments to the zoning ordinance text. Rezoning of property or text amendments initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
8. Requests for a special meeting of the Planning Commission.
9. Change of Use Permits

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, time spent by the members of the Planning Commission and/or Zoning Board of Appeals, cost of professional services, and cost to establish a legal fund. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when the applicant withdraws an application or appeal.

- B. If the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Village Treasurer such additional zoning fees in an amount determined by the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission Board or its Chairperson or Zoning Board of Appeals or its Chairperson to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed

to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

Section 12.6 – Conditions

The Planning & Zoning Commission or Zoning Board of Appeals may attach reasonable conditions with the approval of a special use permit, site plan approval, or variance. These conditions may include those necessary to insure that public services and facilities affected by a loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. An conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes, which are affected, by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 12.7 – Rehearing Process

- A. The Planning & Zoning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 1. The applicant who brought the matter before the Planning & Zoning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning & Zoning Commission or Zoning Board of Appeals in reaching its decision.
 2. There has been a material change in circumstances regarding the Planning & Zoning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
 3. The village attorney by a written opinion states that in the attorney's professional opinion the decision was made by the Planning & Zoning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning & Zoning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:
 1. A request for a rehearing that is made by an applicant must be made within twenty-one (21) days from the date decision on the permit application by of the Planning & Zoning Commission or Zoning Board of Appeals regarding the decision for which the rehearing is being requested.

2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning & Zoning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
3. Whenever the Planning & Zoning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. A notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the village and shall be sent to the person requesting the rehearing and to the zoning administrator or other administrative agency or official fifteen (15) days before the public hearing. In addition, if the rehearing involves an interpretation of the zoning ordinance or a specific parcel, written notice stating the nature of the appeal and the time, date, and place of the public hearing on the appeal shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant.
4. If the Planning or Zoning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

Section 12.8 - Amendments

Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the zoning map may be amended, supplemented or changed by ordinance of the Bellaire Village Council.
- B. The Planning Commission may initiate proposals for amendments, supplements or changes on its own motion or by petition of one (1) or more members of the property to be affected by the proposed amendment.
- C. The procedure to be followed for initiating and processing an amendment by petition shall be as follows:
 1. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee prescribed to cover administrative and publication costs.
 2. The Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal, in terms of the most likely effect on the community's physical development, and for compliance with adopted village plans. The Planning Commission may recommend any additions or modifications to the original amendment proposal.

Rezoning Standards of Review:

- a. The proposed use provided for in the district must be consistent with the uses called for in the Master Plan for that property.
 - b. The proposed district and all of its allowed uses must be compatible with the surrounding area.
 - c. Determination of whether the property is capable of being used for a use already permitted within the district.
3. After deliberation of any proposal, the Planning Commission shall conduct at least one (1) public hearing, notice of the date, time and place of which shall be given by publication in a newspaper of general circulation in the Village, notice to be printed not less than fifteen (15) days before the date of such hearing. Not less than fifteen (15) days notice of the date, time and place of such hearing shall also be given by registered mail to each public utility company that registers its name with the village clerk for the purpose of receiving the notice. In the case of a rezoning of an individual property or several adjacent properties, not less than fifteen (15) days notice of the date, time and place of such hearing shall also be given by registered mail to each owner of the property proposed to be rezoned. The notices shall include the places and times at which the tentative text and any map of the zoning amendment may be examined. In addition, if the rezoning involves a specific parcel, written notice stating the nature of the rezoning and the time, date, and place of the public hearing on the rezoning shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
 4. Following such hearing, the Planning Commission shall consider the testimony taken at the public hearing and its own findings, and shall make a determination as to its decision. Thereafter at any regular meeting or at any special meeting called therefore the Village Council may ordain and enact into law the proposed amendment to the Bellaire Zoning Ordinance.
 5. In case a protest against a proposed amendment, supplement or change is presented, duly signed by the owners of twenty (20%) percent or more of the frontage proposed to be altered, or by owners of twenty (20%) percent of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a three-quarters (3/4) vote of the sitting Village Council.
 6. No application for a rezoning which has been denied by the Village Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Village Council to be valid. A rehearing on the permit may be made in accordance with Section 12.7.

Section 12.9 - Penalties

- A. Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se as defined in this section or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.
- B. Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- C. Officers of the Bellaire Police Department, and other Village officials designated by resolution of the Village Council, are hereby authorized to issue municipal civil infractions under this Ordinance directing offenders to appear in court.
- D. In addition to enforcing this Ordinance as a municipal civil infraction, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 12.10 - Interpretation and Conflict

In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements adopted for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of a building or land than existing easements, covenants or other agreements, the provisions of this Ordinance shall govern or control. Whenever the requirements of this Ordinance differ from the requirements of other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

**ARTICLE XIII
REPEALER, SEVERABILITY & EFFECTIVE DATE**

Section 13.1 - Repeal of Previous Ordinance.

The Village of Bellaire Zoning Ordinance adopted September 5, 2005 along with its amendments is hereby repealed and replaced in its entirety.

Section 13.2 – Savings Clause

The repeal of the Village of Bellaire Zoning Ordinance adopted September 5, 2005, as provided in Section 13.1, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any of the provisions of said ordinance or parts thereof. Said ordinance repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

Section 13.3 - Severability.

If any section, clause, or provision of this Ordinance were declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Village Council hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 13.4 - Effective Date.

This Ordinance shall become effective twenty (20) days after its enactment. .

Date of Publication: February 12, 2008

Effective Date: February 26, 2008