

CHAPTER 152: ZONING CODE

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ARTICLE 1. GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known as the Village of Kingsley Zoning Ordinance and will be referred to herein as this chapter.

§ 152.002 GENERAL LIMITATION OF ZONING CODE.

- (A) Existing uses of lands, buildings, and structures. At the discretion of the property owner, the lawful uses of any dwelling, building, or structure, and of any land or premises as existing and lawful on the effective date of this chapter may be continued, although the use may not be in conformity with the provisions herein.
- (B) Existing nonconformities.
 - (1) No nonconformity existing on the effective date of this chapter shall be enlarged upon, expanded, or extended, other than in conformity with the provisions of this chapter (§ 152.223).
 - (2) The continuance of all nonconforming uses and structures shall be subject to conditions and requirements as after provided in § 152.223.
- (C) Future uses of land and future erection and use of buildings and structures. Beginning with the effective date of this chapter, and except as otherwise hereinafter provided, no land or premises shall be used and no building or structure located, erected, altered, or used, other than in the conformity with the provisions of this chapter.

§ 152.003 STRUCTURE OF ZONING CODE.

- (A) If a use, structure, or edifice is not specifically authorized within a zoning district, either by right or as a special use, then it is excluded and not permitted in that district.
- (B) Sometimes the uses permitted in 1 district are also permitted in another. For example, single-family detached houses are frequently permitted in multi-dwelling district. This is called cumulative zoning.
- (C) A system, known as pyramiding, whereby all of the districts were cumulative in order listed in this chapter; the single-family residential district comes first, followed by the 2-family, the multiple, commercial, and industrial zones in the order.
- (D) This chapter utilizes the pyramiding or cumulative system for the residential districts: R-1, R-2, R-3, and R-4.

§ 152.004 EFFECTIVE DATE.

A public hearing having been held hereon, the provisions of this chapter shall become effective 30 days after adoption, pursuant to Public Act 207 of 1921, being M.C.L.A. §§ 125.581 to 125.590, as amended.

§ 152.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING OR STRUCTURE. A supplemental building or structure on the same lot or premises as the main building, occupied or devoted exclusively to an accessory use, but not for dwelling, lodging, or sleeping purposes.

ADULT FOSTER CARE.

ADULT FOSTER CARE FACILITY. A facility for the care of adults over 18 years of age, as licensed and regulated by the State of Michigan. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. It does not include nursing homes, assisted living facilities, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.

ADULT FOSTER CARE FAMILY HOME. A private residence with the approved capacity to receive not more than six adults who are provided with foster care for five or more days a week and for two or more consecutive weeks.

ADULT FOSTER CARE SMALL GROUP HOME. An adult foster care facility with the approved capacity of not more than 12 adults, excluding licensee and staff, who are provided with foster care.

ADULT FOSTER CARE LARGE GROUP HOME. An adult foster care facility with the approved capacity to receive 13 to 20 adults, excluding licensee and staff, to be provided with foster care.

AUTOMOTIVE REPAIR FACILITY. A building or part thereof, other than a private garage, designed or used for equipping, servicing, and/or repairing of motor vehicles.

BED AND BREAKFAST. An owner-occupied private home (dwelling unit) wherein up to and including 3 bedrooms have been converted for guest use for compensation.

BUILDING. Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind, or carrying on business activities. A BUILDING shall include tents, awnings, and garages, greenhouses and carports and other principal or accessory structures; and also semi-trailers, vehicles, mobile homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A BUILDING shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, oil bunkers, oil cracking towers, or similar structures.

BUILDING SITE. The area within a lot upon which a principal building or structure together with any attached or detached accessory structures may be located.

BUILD TO LINE. An alignment established a certain distance from the curb line to a line along which the building shall be built.

CARPORTS, CANOPIES, AND SHELTERS. See ACCESSORY BUILDINGS.

CHILD CARE.

CHILD CARE FACILITY. A private home or facility in which minor children are received for care and supervision for periods of less than 24 hours a day, and where the parents are not immediately available to the child.

CHILD CARE HOME, FAMILY. A private home in which one to six minor children receive care and supervision, not including the children related to an adult member of the family by blood, marriage or adoption. The term includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

CHILD CARE HOME, GROUP. A private home in which seven to twelve minor children receive care and supervision, not including the children related to an adult member of the family by blood, marriage or adoption. The term includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

CHILD CARE CENTER. A facility, other than a private home, receiving one or more preschool or school age children for care and supervision. Child care centers must provide for parking and drop off area, outdoor play areas, security fencing, lighting, signage and trash disposal as required by state licensing provisions.

CHURCH. See RELIGIOUS INSTITUTION.

CLINIC. An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professions.

CONVENIENCE SALES AND PERSONAL SERVICE. Refers to the retail sale of small convenience items and services.

CORE LIVING AREA. The principal living space determined by measurements of the exterior main building, excluding porches, areas devoted exclusively to accessory uses and decks, sheds, or non-heated additions.

DISTRICT. A geographic area designated by boundary lines, where zoning regulations are common to all land contained within.

DOMESTIC ANIMAL. An animal that a zoo director determines is not likely to bite without provocation nor cause death, maim, or illness of a human.

DUPLEX. A building containing not more than 2 separate dwelling units designed for residential use.

DWELLING. A building or structure occupied as a home, residence, or sleeping place for 1 or more persons, either permanently or transiently, and complying with the following standards.

1. It has a minimum width of the principal part of the building of 20 feet and complies in all respects with the Grand Traverse County Construction Code, including minimum height for habitable rooms.
2. It is firmly attached to a permanent foundation constructed on the site in accordance with the Grand Traverse County Construction Code and CO-extensive with the perimeter of the building.
3. It does not have exposed wheels, towing mechanism under carriage, or chassis.

4. The building or structure contains no additions or rooms or other areas which are not constructed with materials and quality of workmanship similar or better to that of the original structure, including the above-described foundation and permanent attachment to the principal structure.
5. The building or structure is connected to a public sewer and water supply or to the private facilities approved by the local health department.
6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in a closet area, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
7. The building or structure complies with the Village of Kingsley building and fire codes, including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled, Mobile Home Construction and Safety Standards, being 24 C.F.R. pt. 3280, effective 6-15-1976, as amended.
8. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park or mobile home plat zoned for the uses, except to the extent required in this chapter pertaining to the park.

DWELLING, MULTIPLE-FAMILY. A dwelling designed for or occupied as a residence for 3 or more families living independently of each other and each having their own cooking facilities and sanitary accommodations.

DWELLING, SINGLE-FAMILY. A building containing not more than 1 dwelling unit designed for residential use.

DWELLING, MANUFACTURED.

1. Is constructed almost entirely in a factory.
2. The house is placed on a steel chassis and transported to the building site.
3. The wheels can be removed but the chassis stays in place.
4. Local building codes do not apply to manufactured homes; instead these houses are built according to specialized guidelines (federal HUD regulations in the United States) for manufactured housing.

DWELLING, MODULAR.

1. Is constructed of pre-made parts and unit modules.
2. A complete kitchen and bath may be pre-set in the house.
3. Wall panels, trusses, and other pre-fabricated house parts are transported on a flat bed truck from the factory to the building site.
4. Unlike manufactured homes, MODULAR HOMES must conform to the building codes for the locations where they are erected.

ERECTED.

1. Includes built, constructed, reconstructed, moved upon, or any physical operation on the premises intended or required for a building or structure.

2. Fill drainage and general property improvement shall not be considered as erection.

ESSENTIAL SERVICES.

1. The erection, construction, alteration, or maintenance by utilities regulated by the Michigan Public Service Commission, municipal departments or commissions, or any governmental agencies of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of utility service by the Michigan Public Service Commission's regulated utilities, municipal departments, commissions, or any governmental agencies.
2. Warehouses, storage yards, office buildings, vehicle maintenance and repair facilities along with areas or facilities used for equipment repair shall not be classified as essential services for the purpose of this chapter.

FAMILY. One or 2 or more persons occupying a dwelling and living together as a single housekeeping unit.

FLOOD PLAIN. The area of land adjacent to a river or other body of water which is inundated as a result of water exceeding the normal banks of the water body.

FLOOR AREA. The square feet of floor space within the outside walls exclusive of porches, garage, basement, cellar, or attic area.

FLOOR PLAN. A plan that must identify the number of plants, chemical storage, space and other critical aspects of the layout of the permitted premises.

FOOT-CANDLE. The luminance produced on the surface 1 foot from a uniform point source on 1 candela.

FRONT YARD. A yard across the full width of the lot extending from the front line of the principal building to the front lot line.

GARAGE, PRIVATE. An accessory building or an accessory portion of a principal building designed for the storage of motor vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC. A building or part thereof, other than private garages, designed or used for equipping, servicing, repairing, hiring, storing, or parking of motor vehicles. The term does not include the rebuilding, dismantling, or storage of wrecked or junked vehicles.

GOVERNMENT BUILDING. A building provided by or for the purpose of a government or municipality to care for a specified need or function essential to its existence, or which would serve or benefit the public at large.

HIGHWAY. Any public thoroughfare including federal, state, and county roads.

HOME OCCUPATION.

1. An occupation clearly incidental to residential use such as dressmaking, real estate sales, bookkeeping, and accounting services.
2. The occupation may be engaged in only by a resident entirely within his or her dwelling, and not in an accessory building, or with the use of nonresident employees.
3. The use shall not occupy more than 25% of the floor area, exclusive of attic or basement, and shall show no external evidence of the use or any change in the appearance of the building or premises from residential use.

HOME PROFESSIONAL OFFICE.

1. The office of a professional person such as a doctor, lawyer, osteopath, dentist, chiropractor, or engineer and similar professions, when engaged in only by a resident within his or her dwelling and not in an accessory building or structure, and with the assistance of not more than 1 outside or nonresident employee.
2. The use shall occupy not more than 25% of the floor area exclusive of attic or basement, and shall show no external evidence of the use or any change in the appearance of the dwelling or of the premises from residential use, provided, that 1 sign, not exceeding 3 square feet in area may be erected flat on the front wall of the dwelling for identification.

INDOOR RECREATIONAL FACILITY. A commercial recreational land use conducted entirely within a building. Examples include billiard halls, bowling allies, and indoor skating rinks.

IMPERVIOUS SURFACE. Any material that prevents absorption of storm water, i.e. asphalt, concrete. This excludes gravel surfaces.

JUNK YARD. The use of premises for storage or disposition of old and dilapidated automobiles, tractors, trucks, wagons, and other vehicles and parts thereof, scrap building materials, scrap contractor's equipment, tanks, cases, barrels, boxes, drums, piping bottles, old iron, machinery, rags, paper, and other scrap or waste materials.

LAND USE PERMIT. The permit that is issued after the Zoning Administrator has all the necessary information and assurances that indicates the parcel of property, and uses proposed, are in compliance with the zoning ordinance.

LAND USE PERMIT APPLICATION.

1. The formal application that must be submitted by owner or his or her agent as to the construction, use, and activities that will be occurring on the parcel of property in question.
2. This will include but not be limited to site plans, scale drawing, and verification of property ownership.

LOT OF RECORD. A lot that was "platted or otherwise of record" as of the effective date of the chapter, or amendments thereto.

LOT OR PREMISES. The parcel of land occupied by or to be occupied by a building and its accessory buildings or structures, together with the open spaces, minimum area and width required by this chapter for the district wherein located, and having its frontage on a public street.

LUMEN. A unit of luminous flux, the flux emitted within a solid angle by a point source with a uniform, luminous intensity of 1 candela. One foot candle is 1 lumen per square foot. One lux is 1 lumen per square meter.

MANUFACTURED HOME. See DWELLING, MANUFACTURED.

MARIHUANA-RELATED DEFINITIONS

GROWER. As defined in § 154.02, Definitions.

LICENSEE. As defined in § 154.02, Definitions.

MARIHUANA FACILITY. As defined in § 154.02, Definitions.

MARIHUANA PLANT. As defined in § 154.02, Definitions.

MARIHUANA. As defined in § 154.02, Definitions.

MARIHUANA-INFUSED PRODUCT. As defined in § 154.02, Definitions.

PERMIT HOLDER. As defined in § 154.02, Definitions.

PERMIT. As defined in § 154.02, Definitions.

PERMITTED PREMISES. As defined in § 154.02, Definitions.

PERMITTED PROPERTY. As defined in § 154.02, Definitions.

PROCESSOR. As defined in § 154.02, Definitions.

SAFETY COMPLIANCE FACILITY. As defined in § 154.02, Definitions.

SECURE TRANSPORTER. As defined in § 154.02, Definitions.

STATE OPERATING LICENSE. As defined in § 154.02, Definitions.

VILLAGE OPERATING LICENSE. A license that is issued under Chapter 154.

MINI-STORAGE BUILDING. Rows of garage-like structures designed for storage of personal goods, rented for periods of time to individuals and small businesses.

MOBILE HOME. A 1-family manufactured living unit which is transported to a site as 1 or more modules, any of which is so constructed as to permit permanent occupancy as a home, residence, or sleeping place by 1 or more persons.

MOBILE HOME PARK. Any site or tract of land upon which 3 or more mobile homes are located, either free of charge or for revenue purposes; excluding mobile home sales, at which none of the mobile homes are allowed to be occupied.

MODULAR HOME. See DWELLING, MODULAR.

MONITORED SECURITY GATE. Any gate used for ingress or egress on the permitted property through the perimeter enclosure. Each such gate must be monitored by a security guard or other secure

access system, which verifies the identity of the person(s) entering or exiting the perimeter enclosure.

MOTEL. A building or group of buildings, whether detached or in connection units, used or designed as individual sleeping units for transient travelers, and providing accessory off-street parking facilities.

NONCONFORMING USE. A use which lawfully occupied a building or land at the effective date of this chapter, or amendments thereto, and that does not conform to the use regulations of the district in which it is located or the provisions of this chapter.

NURSERY. A place where trees, shrubs, and plants are grown, or raised for transplanting, for use as stocks for budding and grafting, or for sale.

OFFICES. Refers to offices of private firms and organizations and certain government agencies, which are primarily used for the execution of professional, executive, management, or administrative services.

OPEN AIR MARKET. Commercial sale of new or used general merchandise, including antiques, and produce on a temporary basis in open stalls or within partially enclosed or totally enclosed space.

PERIMETER ENCLOSURE. A continuous, opaque fence of commercial quality or masonry wall, or any combination of both that fully encloses a permitted premises. The perimeter enclosure must be no less than 10 feet in height and no more than 12 feet in height.

The perimeter enclosure must be at least 40 feet or the distance necessary to accommodate the radius of the local fire jurisdictions largest apparatus, whichever is greater, away from the permitted premises. Any ingress or egress through the perimeter enclosure must be by a monitored security gate. There is no property line setback requirement for a perimeter enclosure. Any perimeter enclosure must provide for secured access points for fire equipment and personnel, which must be approved by the local fire department with jurisdiction over the permitted premises and/or permitted property.

PERSON. An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

PRINCIPAL USE. The primary and predominant use or intended use of the premises according to the zone requirements, including permitted accessory uses.

PRIVATE ROAD. A street or other thoroughfare used for passage to and from land, which does not abut a publicly maintained road, street, or highway.

RECREATIONAL UNIT.

1. A vehicular-type structure, typically containing less than 500 square feet of floor space primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered.
2. RECREATIONAL UNIT shall include travel trailers, camping trailers, motor homes, truck campers, slide-in campers, and chassis-mounted campers.

RELIGIOUS INSTITUTION. A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

SECURITY PLAN. An interior and exterior security plan that sufficiently demonstrates to the Village Planning Commission that appropriate measures will be installed and in place to prevent unpermitted access to the marihuana and the permitted premises by non- authorized personnel. In order to sufficiently demonstrate, the security plan must include:

1. A physical human security presence on the permitted property at all times;
2. A fully functional, alarm system and video monitoring/recording system at all times. The video monitoring system must provide monitoring of both the interior and exterior of the facility, to allow the operator to detect all activity on the property. Video footage must be recorded in a format that can be viewed by law enforcement personnel. Video footage must be preserved for at least 120 days and turned over to law enforcement personnel upon written request within 24 hours of such request.
3. A perimeter enclosure; and
4. Interior security provisions, which must include that marihuana plant product must be located in an enclosed, locked facility. An **ENCLOSED LOCKED FACILITY** means a fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a licensee and/or their authorized employees. Valuables must be removed from the permitted premises or locked in a safe on the premises at all times when the permitted premises are not in operation.

SHORT-TERM RENTAL. A commercial use which is subordinate to the residential use of a dwelling unit, in which a tenant is allowed to lease the dwelling unit or a portion of the dwelling unit for periods of less than one calendar month in return for remuneration. If a tenant leases a dwelling unit for a period of at least one calendar month, this is not a short-term rental, but instead is a residential use.

SIGN. A structure displaying a message intended to be viewed by the public.

1. **BUSINESS CENTER.** A single building containing 3 or more businesses.
2. **CANOPY SIGN.** A sign that is part of a canopy over a door or window.
3. **ENTRANCE SIGN.** A sign located at the entrance of a residential development or commercial multi-tenant development.
4. **FREESTANDING SIGN.** A sign not attached to a building or wall, supported on poles or supports.
5. **MINOR SIGN.** A permanent anchored or secured sign that is 6 square feet in area or less.
6. **MONUMENT SIGN.** A sign whose base is at ground level and has landscaping at the base.
7. **PORTABLE SIGN.** A free-standing sign not permanently anchored or secured to either a building or the ground.
8. **PROJECTING SIGN.** A sign which projects from and is supported by a wall of a building.
9. **ROOF SIGN.** A sign that is attached to the roof of a building, or that projects above a buildings/ roofline, or that is attached to the roof of an automotive vehicle.

10. **SIGN HEIGHT.** For ground signs, SIGN HEIGHT is defined as the measurement from the established grade to the highest point on the sign.
11. **SIGN AREA.**
 - a. The entire rectangular area within a single continuous perimeter enclosing the extreme limits of lettering, representation, emblems, or other figures, together with any material or color forming an integral part of the display or used to differentiate the sign from the background.
 - b. SIGN AREA shall include the frame of a sign but shall not include any post or other sign structure not containing an advertising message.
 - c. If a sign has only 1 exterior face, the SIGN AREAS of that face shall not exceed the specified maximum.
 - d. If a sign has 2 exterior faces, the SIGN AREA of each face shall not exceed the specified maximum.
 - e. If a sign has more than 2 exterior faces, the sum of the SIGN AREA of all the faces shall not exceed twice the specified maximum.
 - f. In the case of a canopy sign, the copy area of the canopy shall be measured to determine total SIGN AREA.
12. **OUTDOOR ADVERTISING SIGN.** Also known as an OFF-PREMISE SIGN or a BILLBOARD, a sign advertising a use, facility, service, or product that is not located, sold, or manufactured on the same premises as the sign.
13. **OVERALL SIGN AREA.** For monument style and free-standing signs, overall sign area includes the monument base and any supporting posts.
14. **WALL SIGN.**
 - a. A sign which is attached directly to or painted upon a building wall with the exposed face of the sign in a plane parallel to the building wall.
 - b. WALL SIGNS include, for purposes of this chapter, window signs (see definition below), marquees, awning signs, and canopy signs.
15. **WINDOW SIGN.** Signs affixed to, etched into, painted on, in contact with, or within 12 inches of a window; installed for purposes of viewing from outside the premises.

SPECIAL USE. Those uses of land which are not essentially incompatible with the permitted uses in a zoning district, but possess characteristics or location qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services, facilities, and adjacent uses of land.

STICK-BUILT HOME.

1. Is constructed on the building site, piece by piece.
2. Manufactured and modular homes are not classified as stick-built because they are made mostly in the factory and then transported to the site.

STREET. A public thoroughfare which affords the principle means of access to abutting property.

STRIP MALL. A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided. Typically containing more than three commercial establishments. Each establishment shall have its own front and rear entry and meet all parking, safety, and other ordinance requirements.

STRUCTURE. Any construction, assembly, or erection, the use of which requires permanent location on the ground or attached to something having permanent location on the ground.

TEMPORARY BUILDING. A building which is not permanently affixed to the property. An example of a TEMPORARY BUILDING is a trailer used on a construction site or a tent.

TEMPORARY SIGN. A sign advertising real estate or for political campaigns and other temporary purposes for a time not to exceed 90 days.

TENTS. A portable shelter of canvas, coarse cloth, or similar material supported by 1 or more poles, but not including those used solely for children's recreational purposes or noncommercial purposes.

VARIANCE. A deviation from the terms of this chapter as authorized by the enabling statute, upon findings of practical difficulties or unnecessary hardship.

VETERINARY CLINIC. An establishment where animals are treated for diseases and injuries, surgically or medically.

YARD. Space open to the sky between a building and the lot line of the premises on which located, unoccupied and unobstructed by any encroachment of structure, except as otherwise provided by this chapter.

ARTICLE 2. ZONING DISTRICTS

§ 152.020 ESTABLISHMENT OF DISTRICTS.

For the purpose of this chapter, all the area within the Village of Kingsley is hereby divided into the following zoning districts:

- (A) Residential District R-1
- (B) Residential District R-2
- (C) Residential District R-3
- (D) Village Residential District VR
- (E) Forests/Parks/Recreation District
- (F) Commercial District C-1
- (G) Commercial District C-2
- (H) Industrial District I
- (I) Planned Unit Development District
- (J) Condominium Subdivisions.

§ 152.021 ZONING DISTRICTS MAP.

- (A) Zoning Map.
 - (1) The location of each zoning district is shown on a map designated as the “Zoning Districts Map of Kingsley, Michigan,” which information thereon are hereby made a part of this chapter.
- (B) Two copies of the zoning ordinance and official zoning map shall be maintained and kept up-to-date for inspection by the public at all times in the office of the Village Clerk.
- (C) Changes to the Zoning Map.
 - (1) When changes are duly made in the district boundaries or other matters on the official zoning map, the changes shall not be considered final and no permit required by this chapter shall be issued until changes have been made on the official zoning map.
 - (2) Each change shall have a reference number on the map referring to the amending action of the Council.

§ 152.022 DISTRICT BOUNDARIES.

The following rules shall apply in interpreting boundaries.

- (A) Boundaries indicated as approximately following streets, alleys, or highways shall be interpreted as the center lines of the streets, alleys, or highways.
- (B) Boundaries indicated as approximately following lot lines or boundary lines shall be interpreted as following the lines.
- (C) Boundaries indicated as approximately parallel to the center line of streets, alleys, or highways shall be interpreted as parallel thereto, and as the distance therefrom as indicated on the official zoning map.
 - (1) If no distance is specified, the distance shall be determined by the scale of the official zoning map.

- (D) Boundaries indicated as approximately following railroad lines shall be interpreted to be midway between the main tracks.
- (E) Where application of any rules leaves reasonable doubt as to boundaries between districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Zoning Board of Appeals.

§ 152.023 LAND USE PERMITS.

- (A) No person shall erect, place, or move any building having more than 100 square feet of floor area, nor shall any person make an addition of more than 100 square feet of enclosed floor space to any existing building, or change or establish a new use for any land within any zoning district without first obtaining a land use permit therefore.
- (B) Application shall be made by the Zoning Administrator for the permit on the forms to be supplied by the Administrator.
- (C) The Zoning Administrator shall have the power to require proof of ability to comply with all the requirements of this chapter pertaining to the use, and may also require proof of ability to meet all public health standards and applicable state and county laws, regulations, and ordinances.

§ 152.024 TABLE OF USES.

- (A) Land Uses. Uses are allowed in accordance with Table 152.024(B)(1) and Table 152.024(B)(2) below. § 152.0005 DEFINITIONS shall be referred to for clarity on the uses as listed. The following key is to be used in conjunction with the use table.
 - (1) Permitted Uses. Uses permitted by right in the Zoning District, subject to compliance with all other applicable requirements of this Chapter. These uses are identified with a "P."
 - (2) Special Land Uses. Uses which may be allowed subject to review and approval by the Planning Commission in accordance with § 152.229, and all other applicable requirements of this Chapter. These uses are identified with an "S."
 - (3) Uses Not Allowed. Uses which are prohibited in that Zoning District are identified with the "-" symbol.
- (B) Uses Not Listed. The Zoning Administrator or Planning Commission, as applicable, shall have the authority to make a determination about the appropriateness of a use not listed in the tables below. The use may be designated as either a Permitted Use or Special Land Use. In making a determination on the appropriateness of an unlisted use, the following criteria shall be considered:
 - (1) Whether the use is generally consistent with the purpose of the Zoning District and this Ordinance;
 - (2) Whether the use materially impairs the present or potential use of other properties within the same Zoning District or the neighboring area;
 - (3) Whether the use has no greater potential impact on surrounding properties than those listed in the Zoning District in terms of aesthetics, traffic generated, noise, potential nuisances, and other impacts related to health, safety and general welfare; and

- (4) Whether the use is substantially consistent with the Master Plan or other relevant adopted plans of the Village.

Table 152.024(B)(1) Uses: Residential Districts					
Use	R-1	R-2	R-3	V-R	Use Regs.
Household Living					
Single-family dwelling, stick-built	P	P	-	P	
Single-family dwelling, modular	-	-	-	P	
Single-family dwelling, manufactured (i.e., mobile home)	-	-	P	-	Article 5
Two-family or duplex	-	P	-	P	
Townhomes	-	S	-	S	
Multi-family dwelling (3+ units)	-	P	-	P	
Group Living					
Adult foster care, family home (1-6 residents)	P	P	P	P	
Adult foster care, small group home (7-12 residents)	S	S	S	S	
Adult foster care, larger group home (13-20 residents)	-	S	S	S	
Nursing/convalescent home/assisted living	S	S	-	S	
Accessory Uses					
Accessory dwelling unit	P	P	-	-	Article 13
Accessory structure	P	P	P	P	152.220
Home occupation	P	P	P	P	
Bed and breakfast	S	S	S	S	
Child care, family home (1-6 children)	P	P	P	P	
Child care, group home (7-12 children)	S	S	S	S	
Educational and Institutional					
Auditorium or place of assembly	S	S	-	S	
Cemetery	S	S	-	S	
Community center	S	S	-	S	
K-12 educational institution	S	S	-	S	
Public park, playground, or recreation facility	P	P	P	P	
Publicly owned building (i.e., library)	P	P	P	P	
Religious institution with related uses (i.e., rectory, child care)	S	S	-	S	

Table 152.024.B.1 Uses: Commercial & Other Districts					
Use	FPR	C-1	C-2	I	Use Regs.
Residential					
Residential, ground floor	-	P	-	-	152.025(D)
Residential, upper floor(s)	-	P	-	-	
Townhomes	-	P	-	-	152.025(D)
Home occupation	-	P	-	-	
Nursing/convalescent home/assisted living	-	S	-	-	
Educational, Government, and Institutional					

Table 152.024.B.1 Uses: Commercial & Other Districts					
Use	FPR	C-1	C-2	I	Use Regs.
Auditorium or place of assembly, including lodges and clubs	-	P	P	-	
Cemetery	-	S	S	-	
Child care center	-	P	P	-	
Community center or museum	-	P	P	-	
Funeral home or mortuary	-	S	P	-	
K-12 educational institution	-	S	S	-	
Nature trail	P	P	P	P	
Private park or campground	S	-	-	-	
Publicly owned building (i.e., library)	-	P	P	P	
Public park, playground, or recreation facility	P	P	P	-	
Religious institution	-	P	P	-	
Trade, industrial, or business school	-	S	P	P	
Tree plantation, forest, or conservation project	P	-	-	-	
Commercial, Office, and Retail					
Bank, real estate, insurance, and similar business	-	P	P	-	
Computer sales, service, and repair	-	P	P	-	
Hotel or motel	-	S	S	-	
Indoor recreation and entertainment facility (i.e., billiard hall, bowling alley, indoor skating rink, etc.)	-	S	P	-	
Laundromat, laundry, or dry-cleaning facility (without use of explosive or inflammable fluids)	-	S	P	-	
Liquor store / alcohol sales for off-site consumption	-	-	S	-	
Nursery or greenhouse	S	-	-	-	
Open-air retail sale of plant materials not grown on site (e.g., home and garden store)	-	S	P	P	152.025(B)
Outdoor advertising sign	-	-	S	S	152.227
Outdoor entertainment or recreation businesses (e.g., putt-putt, batting cages, etc.)	-	-	S	-	
Paintball club, indoor shooting range, gun club	-	-	S	-	
Personal services (e.g., barber shop, salon, shoe repair, tailor, tanning salon, etc.)	-	P	P	-	
Pet shop, all activities completely enclosed	-	S	P	-	
Professional office, including medical office/clinic	-	P	P	-	
Restaurant (w/o drive-through)	-	P	P	-	
Retail food establishment w/ accessory processing for on-site sales (i.e., grocery store, bakery)	-	P	P	-	
Retail and service business (e.g., pharmacy, hardware, clothing, carpenter, interior design, etc.)	-	P	P	-	
Retail sales associated with industrial use, if no more than 10% of floor area	-	-	-	P	
Retail second-hand store	-	S	P	-	
Short-term rental	-	S	S	-	

Table 152.024.B.1 Uses: Commercial & Other Districts						
Use		FPR	C-1	C-2	I	Use Regs.
Strip mall		-	-	S	-	
Tavern or bar		-	S	S	S	
Industrial and Auto Oriented						
Accessory buildings, structures, or uses customarily incidental to a permitted or Special Land Use		-	P	P	P	
Drive-throughs and drive-ins (except drive-in theaters)		-	S	S	S	
Duplicating shops of no more than 4 presses no larger than 11 ft x 17 ft and related shops and services conducted in less than 10,000 sf		-	P	P	P	
Farm equipment or contractor motorized equipment dealer		-	-	-	S	
Fire, security, or other allied facilities		-	-	-	P	
Marihuana grower		-	-	-	S	152.232
Marihuana processor		-	-	-	S	152.232
Marihuana safety compliance facility		-	-	S	S	152.232
Marihuana secure transporter		-	-	S	S	152.232
Mini-storage/self-storage		-	-	S	S	
Oil-field related services		-	-	-	S	
Parking lot as primary use		-	S	S	P	
Passenger bus station		-	S	S	P	
Production, processing, assembly, testing of materials, goods, and foodstuffs		-	-	-	P	
Public utility installations and buildings		-	-	P	P	
Research and development facility		-	-	-	P	
Sexually-oriented business		-	-	-	S	Article 19
Trailer, and boat sales (new and used), with outdoor storage		-	-	P	P	
Vehicle filling station (i.e., gas station)		-	S	S	S	152.025(A)
Vehicle rental and/or sales, with outdoor storage		-	-	P	P	
Vehicle service and repair facilities for motor vehicles, trailers, and boats, including auto body and paint shops		-	S	S	S	152.025(A)
Vehicle wash facility		-	S	P	P	
Veterinary hospital, clinic, or kennel	w/o outdoor component	-	S	P	P	
	w/ outdoor component	-	-	S	S	
Warehouse or freight terminal		-	-	-	P	
Wireless communications facility	Co-located	P	P	P	P	Article 15
	Freestanding	-	-	-	P	

§ 152.025 USE REGULATIONS.

(A) Vehicle Filling Stations and Service Stations.

- (1) Minimum lot area is 15,000 square feet.
- (2) Minimum width is 100 feet.
- (3) All exterior lighting must be directed so as to deflect away from adjacent properties.

(B) Home and Garden Stores.

- (1) Open-air retail sales of plant materials not grown on the site, sales of lawn furniture, playground equipment, and garden supplies.
 - (2) Outside area shall be aesthetically screened.
- (C) Mini-Storage or Self-Storage Facilities.
- (1) No business activities other than rental of storage units shall be conducted on the premises.
 - (2) No outside storage permitted, except as otherwise noted in this Chapter.
 - (3) No storage of explosive, radioactive, or hazardous materials.
- (D) Townhomes and Ground Floor Residential in C-1 District.
- (1) Entrance Setbacks. The entrance to the unit shall be setback at least 3 feet from the edge of the sidewalk or other public space when facing a public street or right of way. If the entrance does not face a public street or right of way, it shall be set back a minimum of 10 feet from parking areas or other public spaces on the lot. These setbacks are intended to provide a transition space from the street to the residential unit.
 - (2) Screening. An ornamental railing, fence, landscaping, or planter shall be placed at the sidewalk edge to delineate public and private space. The screening may not exceed the height of 3 feet 6 inches where adjacent to a sidewalk and must be at least 50% transparent.
 - (3) Entrance Height. The entrance to a townhome residential unit shall be raised at least 3 feet above grade.
 - (4) Waivers. The requirements of this Section may be modified by the Planning Commission if the ground-floor residential unit is a part of an existing building and the applicant demonstrates that space limitations on the site, safety considerations, or prevailing development patterns in the surrounding neighborhood justify alternative compliance.

ARTICLE 3. RESIDENTIAL DISTRICT R-1

§ 152.035 PURPOSE.

The purpose of Residential District R-1 is to establish a district in the village primarily dedicated to residential use in which each dwelling hereafter erected is located on an individual lot adequate in size and shape to limit overcrowding of land, minimize spread of fire, facilitate provision for a system of transportation, sewage disposal, water, and other public requirements.

§ 152.036 USES.

Refer to Table 152.024(B)(1) for a list of the permitted and special land uses in the R-1 District.

§ 152.037 ACCESSORY USES, BUILDINGS, AND STRUCTURES.

- (A) Accessory uses and minor buildings and structures incidental to any primary or approved use, which does not alter the character of the neighborhood, may be erected.
- (B) Accessory uses shall not include the keeping of poultry or other animals, except 4 dogs or 4 cats, or a combination of dogs or cats not exceeding a total of 4 in number.
- (C) No accessory structure shall be erected or moved upon a lot until construction of main building has actually been commenced, and no accessory building shall be utilized unless the main building is in use.
- (D) See § 152.220 for additional information.

§ 152.038 DIMENSIONAL REQUIREMENTS.

- (A) Minimum lot area. Any new lot hereafter created shall be not less than 10,000 square feet in area.
- (B) Minimum lot width. Any new lot hereafter created shall not be less than 100 feet in frontage width.
- (C) Yard limitations.
 - (1) Front yards. Every building hereafter erected shall have a front yard not less than 25 feet in depth.
 - (2) Side yards. Every building hereafter erected shall provide side yards not less than 10 feet, with a minimum of 20 feet between buildings and a combined side yard setback of 20 feet.
 - (3) Rear yards. Every building hereafter shall provide a rear yard not less than 10 feet in depth.
- (D) Building height. Maximum height shall be 35 feet.
- (E) Minimum floor area. Every dwelling hereafter erected shall provide not less than 600 square feet of floor area per dwelling unit, not including basement, cellar, attic, attached garage, or other attached structure.
- (F) Maximum lot coverage. Maximum lot coverage shall not exceed 70%.
- (G) Width to depth ratio of lot. The length may be no more than 4 times the width of the property.

ARTICLE 4. RESIDENTIAL DISTRICT R-2

§ 152.050 PURPOSE.

- (A) The purpose of providing Residential District R-2 is to establish a district in the village primarily dedicated to residential use in which each dwelling hereafter erected is located on an individual lot adequate in size and shape to limit overcrowding of land, minimize spread of fire, facilitate safe exit and entrance to the premises, and facilitate provision for a system of transportation, sewage disposal, water, and other public requirements.
- (B) The provisions are primarily intended to protect and stabilize the basic qualities of each district and provide suitable and safe conditions for family living.

§ 152.051 USES.

Refer to Table 152.024(B)(1) for a list of the permitted and special land uses in the R-2 District.

§ 152.052 DIMENSIONAL REQUIREMENTS.

- (A) Minimum lot area. Each dwelling unit shall have a minimum lot area of 10,000 square feet per unit.
- (B) Minimum lot width.
 - (1) Single-family – 100 feet
 - (2) Two-family and multi-family – 150 feet
- (C) Yard limitations.
 - (1) Front yards. Every building hereafter erected shall have a front yard not less than 25 feet in depth.
 - (2) Side yards. Every principal building hereafter erected shall provide side yards not less than 10 feet, with a minimum of 20 feet between buildings and a combined side yard setback of 20 feet.
 - (3) Rear yards. Every building hereafter shall provide a rear yard not less than 10 feet in depth.
- (D) Building height. Maximum height shall be 35 feet.
- (E) Minimum floor area. Every dwelling hereafter erected shall provide not less than 600 square feet of floor area per dwelling unit, not including basement, cellar, attic, attached garage, or other attached structure.
- (F) Maximum lot coverage. Maximum lot coverage shall not exceed 70%.
- (G) Width to depth ratio of lot. The length may be no more than 4 times the width of the property.

ARTICLE 5. RESIDENTIAL DISTRICT R-3

§ 152.080 PURPOSE.

- (A) The purpose of providing a Residential R-3 District is to establish a district in the village primarily dedicated intended for single-family and mobile home communities.
- (B) Mobile homes shall be one-family dwelling units with a width of not less than 14 feet and complying with all other criteria found in the definition of a DWELLING.

§ 152.081 USES.

Refer to Table 152.024(B)(1) for a list of the permitted and special land uses in the R-3 District.

§ 152.082 DIMENSIONAL REQUIREMENTS.

- (A) The same yard and lot requirements shall apply as in the R-2 District.
- (B) The same building height requirements shall apply as in the R-1 District.

§ 152.083 LICENSED MOBILE HOME PARK REQUIREMENTS.

- (A) Licensed mobile home parks may be constructed in Residential District R-3; provided, however, that the mobile home parks comply with all applicable state regulations.
- (B) Further, the mobile home parks shall have at minimum the following:
 - (1) Lot areas of no less than 1,500 square feet;
 - (2) Pressurized water systems and sanitary sewage disposal systems acceptable to the County Health Department, or the other state agency having the enforcement responsibility;
 - (3) Paved roads throughout the mobile home park; and
 - (4) Off-street parking as required in § 152.224.

ARTICLE 6. VILLAGE RESIDENTIAL DISTRICT VR

§ 152.090 PURPOSE.

- (A) This district is intended to facilitate single-family residential uses and accessory buildings in the core areas of village that have the historic smaller and/or narrow lots of record. This district is intended to reduce the number of nonconforming lots within the village and provide for future infill housing opportunities.
- (B) Buildings in this district are strongly encouraged to follow a traditional neighborhood character and be designed to be compatible with the architectural character of existing older buildings with respect to their: garage location, building height, materials of construction, roofline slopes, porches, windows and pedestrian and vehicular access location.

§ 152.091 USES.

Refer to Table 152.024(B)(1) for a list of the permitted and special land uses in the VR District.

§ 152.092 DIMENSIONAL REQUIREMENTS.

<i>Dimensional Requirements</i>	
Lot size:	6,000 square feet
Lot width:	50 feet
Lot coverage:	60%
Setbacks	
Front:	Min. 10 feet, Max. 20 feet (or average of the existing structures on the block)
Side:	5 feet
Rear:	10 feet, Residence
	3 feet, Garage (on active alley)
Building height:	35 feet
Minimum floor area:	600 square feet
Width to depth area:	4:1 (length may be no more than 4 times width)
Notes:	
A. Garages facing the street to be setback a minimum of 10 feet from the front of the residence (not the porch)	
B. See § 152.220 Accessory Uses, Buildings, and Structures	

ARTICLE 7. FORESTS/PARKS/RECREATION DISTRICT

§ 152.100 PURPOSE.

The purpose of this district is to provide an area exclusive of residential, commercial, or industrial growth to preserve the natural features of the village and to provide for the recreational needs of the community.

§ 152.101 USES.

Refer to Table 152.024(B)(2) for a list of the permitted and special land uses in the FPR District.

ARTICLE 8. COMMERCIAL DISTRICT C-1

§ 152.115 PURPOSE.

The purpose of this district is to promote an active, vibrant commercial downtown (beginning at the railroad tracks to 510 W. Main and from the Main/Brownson intersection North to 200 N. Brownson and South to 313 S. Brownson also including properties on Blair Street from the railroad tracks to 209 W. Blair) by accommodating small businesses primarily serving adjacent neighborhoods with day-to-day retail goods and services. The desired development pattern is one that mimics a historical downtown.

§ 152.116 USES.

Refer to Table 152.024(B)(2) for a list of the permitted and special land uses in the C-1 District.

§ 152.117 ACCESSORY USES, BUILDINGS, AND STRUCTURES.

Accessory uses, buildings, and structures customarily incidental to any primary or permitted use or special use permit are permitted. See § 152.220 for additional information.

§ 152.118 LOT AND YARD AREA REQUIREMENTS.

(A) Minimum Lot Area.

- (1) There is no minimum lot area for non-residential uses.
- (2) For residential uses, 750 square feet of lot area is required per residential dwelling unit. For the purposes of this calculation, lot area includes half of the width of any adjacent streets or other rights-of-way.

(B) Minimum Lot Width. There is no minimum lot width.

(C) Front Setback.

- (1) Structure must be 2 feet from the sidewalk to maintain, or in some instances create a build-to line.
- (2) In no case shall the front yard setback be more than 5 feet.

(D) Side Yard Setback.

- (1) None, except a minimum 10-foot side setback is required on any side adjacent to an R-District.

(E) Rear Yard Setback.

- (1) 5 feet, except a 20-foot rear setback is required on portion abutting or across an alley from an R-District.

§ 152.119 BUILDING DESIGN REQUIREMENTS.

To preserve and reinforce the context of historic buildings and to establish development patterns of the C-1 District, all new buildings and additions to existing buildings are to be designed, constructed and used in accordance with the following standards:

(A) Building Height.

- (1) Maximum height shall be 2 stories (no taller than 35 feet) or 3 stories (no taller than 45 feet) if the building contains residential dwelling units.

- (2) An additional story may be permitted for mixed-use buildings by special land use, subject to the requirements of § 152.229. A minimum step back of 10 feet shall be required on the 4th story. This step back requirement may be modified by the Planning Commission.

(B) Entrances.

- (1) The predominant building wall and entryway shall face the street.
- (2) Pedestrian entrances may open onto the sidewalk or mid-block passages or walkways leading to the public right-of-way.
- (3) The primary pedestrian building entrance shall be clearly identified using an awning, pavement treatment, porch, a change in roofline, recessed entrance, or other architectural feature and must not interfere with safe pedestrian passage along walkways.

(C) Building Materials.

- (1) Durable, high-quality building materials and solid craftsmanship are required.
- (2) Building materials shall be compatible with adjacent historic buildings.
- (3) Acceptable materials include brick, wood, stucco, glass, fiber cement siding, masonry units, stone, or other material as deemed suitable by the Planning Commission.
- (4) EIFS and vinyl or aluminum siding shall only be used for accents.

(D) Windows and Transparency.

- (1) Window glazing shall be recessed from the outside of all building walls.
- (2) Clear or lightly tinted transparent glass shall be used for all windows facing a public street. Decorative stained glass may be used for accents. Mirrored, smoked and darkly tinted glass is prohibited.
- (3) The spacing and shape of windows and openings on the building shall closely reflect windows and openings of any adjacent historic buildings.
- (4) Except for buildings that are solely residential, windows or street level activities are required on 50% of the first story street wall facing any public street. Street level activities include public display space, public atriums, pedestrian entrances and interior circulation and windows with views into any designated street level use.

(E) Façade Variation.

- (1) Vertical building modulation shall be used to add variety and interest and to make a large building appear to be an aggregation of smaller units.
- (2) Relief from a continuous street facing wall may be achieved with wall offsets in combination with pilasters, corbelling or other permanent architectural elements, however, offsets in any wall shall not be less than 8 inches from the subject plane.
- (3) Street-facing building facades shall incorporate permanent architectural elements which create shadow patterns and surface textures which, in turn, enhance visual interest.
- (4) Cornices and other primarily horizontal architectural elements incorporated in new buildings or additions to existing buildings shall be in context with historic buildings in the area.

- (F) Mechanical Equipment. Any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material, which is approved by the Planning Commission as visually compatible with the building.

§ 152.120 PARKING REQUIREMENTS.

(A) Required Parking and Waivers.

- (1) No off-street parking is required for any non-residential use in the C-1 District.
- (2) For residential uses, including residential located in a mixed-use building, 1 parking space per dwelling unit is required.
 - (a) Parking waivers per § 152.224 may be sought according to the provisions contained therein.

(B) Parking Location.

- (1) For accessory parking areas, no part of the parking area shall be permitted in the front yard.
- (2) For parking areas that are principal uses or for auto-oriented businesses such as car dealerships or gas stations, the following setbacks apply:
 - (a) Front yard setback: 5 feet from the sidewalk.
 - (b) Side yard setback: 5 feet, except a 10-foot side setback is required on any side adjacent to a residential district.
 - (c) Rear yard setback: 5 feet, except a 20-foot rear yard setback is required on any side adjacent to a residential district.
- (3) Parking lot location and setbacks for parking areas can be reduced by the Planning Commission upon a finding that a unique site condition prohibits full compliance.

ARTICLE 9. COMMERCIAL DISTRICT C-2

§ 152.130 PURPOSE.

- (A) The purpose of establishing a Commercial District C-2 is to provide areas exclusive of residential use and primarily dedicated to a wide variety of commercial business, professional and other services commonly associated with commercial truck movements, of the nuisance of smoke, dust, fumes, gas, heat, glare, noise, and/or vibration.
- (B) Provision is also made for integration of various enterprises and establishments by special approval as provided in §§ 152.300et seq.

§ 152.131 USES.

Refer to Table 152.024(B)(2) for a list of the permitted and special land uses in the C-2 District.

§ 152.132 ACCESSORY USES, BUILDINGS, AND STRUCTURES.

- (A) Nothing contained herein shall be deemed to prevent the erection or maintenance of accessory buildings, structures, and uses, provided, however, the buildings, structures, and uses are not in conflict with the requirements of the zoning district, and the buildings, structures, and uses be constructed of and conform to materials and features of the principal of building and business.
- (B) A land use permit must be obtained from the Zoning Administrator prior to construction.

§ 152.133 LOT AND YARD AREA REQUIREMENTS.

- (A) Generally.
 - (1) Minimum lot width. Every lot upon which a business is erected shall be not less than 100 feet in frontage width subject to site plan review.
 - (2) Building height.
 - (a) Standard maximum height shall be 35 feet.
 - (b) Any deviation over 35 feet shall require a special use permit.
 - (3) Front yard setback.
 - (a) Building must be 25 feet off the right-of-way, and conform to established character of immediate area.
 - (b) Any deviation to conformation and character of the area or to establish character of area shall require a special use permit.
 - (4) Side yard setback.
 - (a) 10 feet.
 - (5) Rear yard setback.
 - (a) 10 feet, except a 20-foot rear setback is required if abutting a residential district.

§ 152.134 PARKING REQUIREMENTS.

- (A) Required Parking and Waivers.
 - (1) Parking shall be provided in accordance with the requirements of § 152.224.

- (2) Waivers for the number of required parking spaces shall be allowable per the requirements of § 152.224.

(B) Parking Location.

- (1) For accessory parking areas, no part of the parking area shall be permitted in the front yard.
- (2) For parking areas that are principal uses or for auto-oriented businesses such as car dealerships or gas stations, front yard parking is permitted. The following setbacks apply:
 - (a) Front yard setback: 5 feet from the sidewalk.
 - (b) Side yard setback: 5 feet, except a 10-foot side setback is required on any side adjacent to a residential district.
 - (c) Rear yard setback: 5 feet, except a 20-foot rear yard setback is required on any side adjacent to a residential district.
- (3) Setbacks for parking areas can be reduced by the Planning Commission.

ARTICLE 10. INDUSTRIAL DISTRICT I

§ 152.155 PURPOSE.

- (A) This district is intended to accommodate wholesale, warehouse, and industrial activities whose operational and physical characteristics do not detrimentally affect any of the surrounding districts.
- (B) This district is established to permit the manufacturing, compounding, processing, packaging, assembly, and/or treatment and storage of finished or semi-finished products from previously prepared materials.
- (C) This district is also intended to permit limited retail enterprises if they are directly related to the distribution of products manufactured or warehoused, which are not suitable for wholesale distribution.

§ 152.156 USES.

Refer to Table 152.024(B)(2) for a list of the permitted and special land uses in the I District.

§ 152.157 USE REQUIREMENTS.

- (A) Storage.
 - (1) Activities in this district shall be carried on in completely enclosed buildings.
 - (2) Storage may be permitted out-of-doors in rear yards as provided herein.
 - (3) All storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates.
 - (4) The wall or fence shall be at least 6 feet in height and no lower than the enclosed storage.
 - (5) If storage or walls exceed 10 feet in height, the storage must then be moved into the normal setback lines of the building.
 - (6) The storage shall not be deemed to include the parking of licensed motor vehicles under 1 1/2-ton rated capacity.
- (B) Uses.
 - (1) Uses in this district shall conform to the safety standards of appropriate federal and state agencies that are designed to regulate air, water, and noise pollution and the use or manufacture of hazardous substances, to include explosive substances, propane, flammable liquids, oxygen, and acetylene.
 - (2) Buildings that contain hazardous substances shall be constructed so as to contain any spillage that occurs within the building, or diked so as to contain the rupture of a storage facility.
 - (3) All construction plans relating to the location of buildings, storage facilities, fencing, and other above-ground structures, screening and landscaping, shall be subject to review and approval by the County Fire Department, particularly in regards to appropriate on-site clearance for the accessibility of fire and other emergency vehicles.
 - (4) Each building shall also have an approved fire and security warning system.
 - (5) All areas shall be plainly lighted and marked.

- (C) All uses permitted within the Industrial District shall comply with the sewer and other applicable ordinances of the Village of Kingsley.

§ 152.158 DIMENSIONAL REQUIREMENTS.

- (A) Yards in this district shall conform to the following standards:

(1) Front yards.

- (a) Buildings must be 35 feet off the right-of-way, and conform to established character of immediate area.
- (b) Off-street parking shall be permitted for automobiles, provided that not more than 25% of the required front yard may be used to within a distance of 15 feet of the street right-of-way line.

(2) Side yards.

- (a) Except for a strip 10 feet in width along the lot boundary, side yards may be used for parking and loading, but not for storage.
- (b) The side yard may be eliminated where a railroad service to the site is obtained at the edge of the lot.
- (c) Side yards shall be 25 feet except on a corner lot where the front yard setback shall hold on all sides facing the street.

(3) Rear yards.

- (a) Except for a strip 10 feet in width, the rear yard may be used for parking, loading, and storage, provided that when required screening is located on the property line, the 10-foot strip may be used for parking, loading, and storage.
- (b) The rear yard may be eliminated where a railroad service to the site is obtained at the edge of the lot.
- (c) Rear yards shall be 25 feet except on corner lots, where the front yard setback shall hold on all sides facing streets.

- (B) Maximum building height in this district shall be 55 feet.

- (C) Each development shall be required to provide adequate off-street parking for all employees, customers, and visitors within the site.

- (D) Loading and Unloading.

- (1) No loading or unloading shall be permitted on any public or private street or road or any other place, except as provided in accordance with the following.
- (2) Loading and unloading areas shall comply with the requirements of this chapter, except that all industrial uses must have a minimum of 1 loading and unloading area.

§ 152.159 SITE PLAN REVIEW PROCEDURE.

Before a land use permit for a use within this district shall be issued, the owners or lessors shall submit the following materials to the Village Zoning Administrator for review and approval, as in compliance with § 152.228 of the Village Planning Commission and Village Council:

- (A) A site plan for the property showing the location of all present and proposed buildings, drives, parking areas, snow removal and storage plans, waste disposal systems, screening fences or walls, and other construction features which may be proposed;

- (B) A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation;
- (C) Engineering and architectural plans for the treatment and disposal of sewage and industrial waste or unusable by-products;
- (D) Any other information the Village Zoning Administrator, Planning Commission, or Village Council may require which has to do with public health, safety, or general welfare, including, but not limited to, architectural and engineering drawings of all buildings;
- (E) Any building permit granted under this section shall become null and void unless the development proposed shall have passed its occupancy permit inspection within 1 year from the date of the granting of permit; and
- (F) In all instances in which the Village Zoning Administrator, Planning Commission, or the Village Council considers the ability of a proposed use to meet all requirements of this chapter to be reasonably doubtful, it will be incumbent upon the proponent to furnish adequate evidence in support of the application, including deposit of surety bond in an area bank in the amount of estimated requirement costs. If the evidence is not presented, the building permit shall not be issued.

ARTICLE 11. PLANNED UNIT DEVELOPMENT DISTRICT

§ 152.170 DESCRIPTION AND PURPOSE.

(A) Purpose and Intent.

- (1) The Planned Unit Development (PUD) Zoning District is intended to permit and control the development of lands as planned unit developments for compatible uses permitted by this chapter.
- (2) The planned PUD is authorized under the terms of §§ 152.170 et seq., to permit a greater degree of flexibility in the use, area, height, bulk, and placement of buildings, structures, and accessory uses than would otherwise be the case in other zoning districts established by this chapter.
- (3) The PUD provisions of §§ 152.170 et seq. have been established in order to encourage the use of land in accordance with its character and adaptability, to conserve natural resources and energy, to encourage innovation in land use planning, to provide enhanced housing, employment, commercial traffic circulation, and recreation opportunities for compatibility of design and use between neighboring lands.
- (4) It is intended that all land uses in a PUD District shall be afforded reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection from PUD land uses also be afforded to uses adjacent to or affected by each PUD District.
- (5) It is not intended that the provisions of §§ 152.170 et seq. be utilized to circumvent other provisions of the Zoning Ordinance or the comprehensive land use planning which has been undertaken by the village.
- (6) It is intended that land uses resulting from application of the provisions of §§ 152.170 et seq. will be those uses which are not substantially inconsistent with other zoning districts and areas are intended to be approved only in the cases where the intents and purposes of §§ 152.170 et seq. and the Zoning Ordinances have been complied with.

- (B) All zoning of lands pursuant to §§ 152.170 et seq. shall, where appropriate, include reasonable conditions regarding the emission and transmission of injurious or obnoxious noise, vibrations, gas, smoke, dust, dirt, litter, odor, light glare, traffic congestion, ease of police and fire protections, drainage, lateral land support, blighting influences, effect on surrounding property surface and groundwater quality, water supply and sewage area, and other similar considerations which have an effect on the achievement of the purposes of this chapter.

§ 152.171 DEFINITIONS.

For the purpose of §§ 152.170 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GROSS DENSITY. The density of dwelling units or other improvements situated on a parcel of land, in comparison to the area of the parcel, calculated by dividing the number of dwelling units or other improvements by the total amount of land area, in acres, which will be occupied by the lands use,

including all of the area of drives, parking area, streets, recreation, greenbelt and other areas, and ½ of the width of any adjacent streets or other rights-of-way.

STREET FRONTAGE. The length of the line of a lot or parcel of land which separates the parcel of land from a street or other right- of-way.

§ 152.172 PERMITTED USES.

Lands in the PUD Zoning District may be used for all or any of the uses permitted by this chapter in other zoning districts and for any other special uses not so permitted.

§ 152.173 USES SPECIFICALLY PROHIBITED.

- (A) Mobile home parks; and
- (B) Facilities that produce hazards to the public health.

§ 152.174 MINIMUM SIZE FOR ELIGIBILITY FOR PUD REZONING.

- (A) Lands considered for PUD rezoning should contain a minimum of 3 acres, including existing compatible uses.
- (B) Any planned unit development which fronts M-113 or Brownson Avenue shall have a minimum street frontage of 400 feet.

§ 152.175 PROCEDURES FOR PUD REZONING.

- (A) Lands in the village, which are eligible for rezoning to the PUD District, may be zoned in the district in accordance with the procedures and requirements set forth in §§ 152.170et seq.
- (B) The rezoning of lands to the PUD District is a two-step process, commencing with the submission and approval of a preliminary development plan and concluding with the submission of a final development plan, a petition for PUD rezoning in accordance with the final development plan and the rezoning of lands to the PUD land use, by action of the Planning Commission and Village Council.
- (C) In the discretion of the Zoning Administrator, a pre-application conference between the Zoning Administrator and any PUD applicant may be convened before submission of a Planned Unit Development application.

§ 152.176 PRELIMINARY DEVELOPMENT PLAN.

- (A) Preliminary plan submission.
 - (1) Each applicant for PUD rezoning must submit to the Zoning Administrator 8 copies of a preliminary development plan.
 - (2) The Zoning Administrator, after review, shall forward the preliminary plan to the Planning Commission or return it to the applicant for additional information.
- (B) Preliminary plan content. Each PUD preliminary plan shall include the following, unless waived by the Zoning Administrator as not applicable:
 - (1) A written legal description of all the lands proposed within the PUD;
 - (2) A small-scale sketch of all properties, streets, and uses within ½ mile of the PUD boundaries;

- (3) A plan containing the same information as required for a proposed site plan by § 152.228 and the other information as is required by the Zoning Administrator; and
- (4) A narrative describing the following:
 - (a) The overall objectives of the PUD;
 - (b) Source and method of financing;
 - (c) Number of acres allocated to each use;
 - (d) Gross residential densities where applicable;
 - (e) Proposals for providing sewage disposal, potable water, and other public and private utilities;
 - (f) Proposed method for providing storm drainage; and
 - (g) Preliminary architectural sketches and/or a statement as to the type of construction and materials which will be used throughout the planned unit development.

§ 152.177 REVIEW OF PRELIMINARY DEVELOPMENT PLAN.

- (A) The Zoning Administrator shall review the preliminary development plan to verify PUD eligibility and make recommendation to the PUD applicant based upon the requirements of this chapter and the following specific considerations where applicable.
- (B) The preliminary development plan shall then be forwarded to the planning commission for review.
- (C) Requirements.
 - (1) Pedestrian and vehicle movement areas, vehicle and materials storage and pick-up areas, and other services areas with particular reference to: vehicle and pedestrian safety and convenience, traffic flow and control, alternate and marginal access to and emergency access in case of fire or catastrophe; and
 - (2) All streets, at a minimum, must meet the Grand Traverse County Standard and Specifications for subdivisions and other Development Projects with Public and Private Roads.
 - (3) Utilities with reference to locations, availability, ownership, and compatibility;
 - (4) Screening and buffering with reference to type, dimension, and character;
 - (5) Signs, if any, and proposed exterior lighting with reference to size, height, setback, glare, traffic safety, economic effect, compatibility, and harmony with properties within and adjacent to the PUD area.
 - (6) All external light fixtures must be designed to focus light down on the site, not on adjacent properties, roads, and the like;
 - (7) Yards and other open space with reference to the arrangement and densities of land uses within the PUD and those yards required in the existing and surrounding zoning districts;
 - (8) The height, area, and bulk of all structures with reference to the requirements of this chapter, as well as compatibility with other ordinances and statutes, which regulate land development;
 - (9) General compatibility with adjoining properties and properties within the proposed PUD;

- (10) The purpose and intent of this chapter, as well as compatibility with other ordinances and statutes, which regulate land development; and
- (11) In an effort to allow flexibility in a PUD, building restrictions should be kept to a minimum. Several essential aspects must be adhered to as follows:
 - (a) Building setbacks shall be determined by the Planning Commission according to the use of the buildings and character of the neighborhood.
 - (b) All portions of the land not developed must be landscaped with trees, shrubs, and suitable ground cover.
 - (c) Portions of a commercial structure or parking area must be screened from any abutting residential area by a wall or berm measuring no less than 4 feet in height.

§ 152.178 TRANSMITTAL OF RECOMMENDATION ON PRELIMINARY DEVELOPMENT PLAN.

The Planning Commission may approve or disapprove the Preliminary Development Plan, either in whole or in part; and may adopt or recommend to the applicant changes or additions in, or conditions upon, the Preliminary Development Plan. After taking any such action the Planning Commission shall forward to the applicant their written recommendation, together with any recommendations regarding changes, additions, or conditions. A copy of the Planning Commission's action shall be forwarded to the Village Council for approval or denial. In the course of its consideration of the Preliminary Development Plan, the Planning Commission may convene an advisory public hearing for the purpose of receiving comments relative to the Preliminary Development Plan. The public hearing shall be held and notice provided pursuant to § 152.274.

§ 152.179 SUBMISSION OF FINAL DEVELOPMENT PLAN AND PETITION FOR REZONING.

- (A) Within a period not to exceed 1 year after the date of receiving the action taken by the Village Council and/or Planning Commission on the Preliminary Development, the applicant for PUD rezoning shall submit to the Village Clerk a petition for rezoning to the PUD uses shown in the final development plan.
- (B) The final development plan shall set forth all of the matters shown and included in the preliminary development plan, except as changed or modified by action of the provisions of §§ 152.170et seq., the petition for PUD rezoning shall be reviewed and acted upon in accordance with the provisions of this chapter regarding amendments to the Zoning Ordinance and in compliance with Public Act 207 of 1921, M.C.L.A. §§ 125.581 to 125.600.

§ 152.180 CONTENTS OF FINAL DEVELOPMENT PLAN.

- (A) Generally. Each final development plan shall include all of the following information, except any information which is found by the Zoning Administrator to be not reasonably necessary for consideration of the requested PUD.
- (B) Specifically.

- (1) A plot plan, or series of plans, based on an accurate certified land survey drawn to a scale which renders enough detail to allow the Planning Commission and Village Council to make accurate interpretations;
- (2) Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings and/or structures.
- (3) Heights and area of buildings and structures shall be described.
- (4) The period of time within the project will be completed;
- (5) Proposed staging of the project, if any;
- (6) Gross areas of buildings and parking;
- (7) Delineation of the 100-year flood plan, if applicable, and any proposed uses therein;
- (8) A description of all aspects of the plan which might have an adverse effect on public health, safety, or welfare;
- (9) Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option to purchase contract;
- (10) Method of financing and commitments or other proof of ability to obtain financing;
- (11) Utilities; all buildings shall hook up to the municipal sewer and water systems and shall comply with county drainage requirements; and
- (12) Additional information which the Zoning Administrator, Planning Commission, or Village Council may request which is reasonably necessary to evaluate the proposed PUD and its effect on the surrounding neighborhood and the village in general.

§ 152.181 PUBLIC HEARING BY PLANNING COMMISSION.

The Planning Commission shall give notice and convene a public hearing on the final development plan and the petition for PUD rezoning, pursuant to § 152.274, for the purpose of considering and receiving comments upon the final development plan and petition for PUD rezoning.

§ 152.182 RECOMMENDATION OF PLANNING COMMISSION.

- (A) After the required public hearing, the Planning Commission shall make recommendations to the Village Council regarding the approval or denial, in whole or in part, of the final development plan and the approval or denial of the requested PUD zoning change.
- (B) The recommendations may include recommended changes in the final development plan or conditions to be imposed thereon.
- (C) The Planning Commission shall transmit the recommendations to the Village Council, along with a summary of comments received at the public hearing, minutes of all proceedings, and all other documents related to the Planned Unit Development request.

§ 152.183 ACTION BY VILLAGE COUNCIL.

- (A) Upon receiving the recommendations of the Planning Commission of the final development plan and the petition for PUD rezoning, or either of them, are approved or disapproved only in part, or if the Village Council imposes conditions or requirements not previously imposed by the Planning Commission, the matter shall first be referred to the Planning Commission who shall then forward its recommendations thereon to the Village Council, after which the Village Council may proceed to take action to approve or disapprove the final development plan and the petition for PUD rezoning. Such action by the Village Council shall take place in

the same manner as is provided in this chapter and in Act 208 for the rezoning of lands to any zoning district. A public hearing shall be held and notice provided pursuant to § 152.274. If approved by the Village Council, a copy of any amendment of this chapter rezoning lands to the PUD zoning district shall be forwarded to the Village Clerk for publication and filing with the village zoning ordinance.

(B) In reviewing the final development plan and in considering the petition for PUD rezoning, the Village Council shall determine whether the plan complies with the terms and provisions of this chapter and whether the proposed project promotes the intent and purposes of this chapter, including §§ 152.170et seq., and whether it will be compatible with adjacent uses of land, the natural environment, and the capacities of project; and whether the proposed project will be consistent with the public health, safety, and general welfare.

(C) Conditions.

(1) The Village Council may impose reasonable conditions upon its approval of any final development plan.

(2) The conditions may include those necessary to insure that public services and facilities affected by a proposed PUD will be capable of accommodating increased public service demands caused by the proposed land use or activity, to protect the natural environment and to conserve natural resources and energy, to ensure compatibility with adjacent uses of lands and to promote the use of lands in a socially and economically desirable manner.

(3) Any conditions imposed shall satisfy all of the following requirements:

(a) Be necessary to satisfy the intent and purposes of this chapter and be related to the standards of this chapter and be related to the standards established in this chapter for the proposed PUD;

(b) Be related to the valid exercise of the police power; and

(c) Be designed to protect natural resources, the health, safety, and general welfare of those who will use the proposed project and the residents and owners of land immediately adjacent to the proposed project and the village as a whole.

(4) Any conditions imposed in connection with approval shall remain unchanged, except upon the mutual consent of the Village Council and the owner of the lands involved.

§ 152.184 GENERAL PROVISIONS FOR PUD DISTRICTS.

(A) Generally. The following provisions shall apply to all Planned Unit Development Districts.

(B) Specifically.

(1) Time limitations on developments.

(a) Each PUD development shall be under construction within 1 year after the date of Village Council approval of the final development plan and the petitions for rezoning.

(b) If this requirement is not met, the Village Council may, in its discretion, grant an extension of time, not exceeding 1 year, for the commencement of construction, provided that the applicant presents reasonable and valid

evidence to the effect that the development has encountered unforeseen difficulties, but is then ready to proceed without further delay.

- (c) If the development is not commenced within 1 year after issuance of the building permit, or within the above stated 1-year extension, if granted, any building permit issued for the development shall thereupon be void and no further effect, and the Zoning Administrator, Planning Commission, and Village Council may initiate and carry out proceeding for the rezoning of the lands to some other district.
- (2) Performance bonds. In its review of any final development plan, the Zoning Administrator, Planning Commission, or Village Council may require reasonable agreement or other undertaking by the applicant to guarantee and assure the completion of the proposed PUD, to the extent and in the manner specified in the final development plan, including a performance bond in the amount and upon the terms as the Zoning Administrator may determine to be necessary to assure the timely and proper completion of the development in accordance with the final development plan.
- (3) Additional provisions. All provisions of this chapter and other applicable ordinances of the village shall apply to the PUD District except where inconsistent therewith, in which case the provisions of §§ 152.170et seq. shall control.

ARTICLE 12. CONDOMINIUM SUBDIVISIONS

§ 152.195 INTENT.

- (A) Michigan statutes provide for developments consisting of 1-family, detached residential dwelling units and sites through procedures other than those authorized by the Land Division Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 to 560.293.
- (B) The intent of §§ 152.195et seq. is to provide procedures and regulations for residential subdivisions implemented under the provisions of the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 to 559.272, as amended, and to ensure that the developments are consistent and compatible with conventional 1-family platted subdivisions and promote the orderly development of the adjacent areas.
- (C) It is not intended that commercial or industrial condominium projects will be reviewed or approved under this section of the Village of Kingsley Zoning Ordinance.

§ 152.196 GENERALLY.

For the purpose of this section, a condominium subdivision shall include any residential development in a residential or agricultural district proposed under the provisions of the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 to 559.272, as amended, consisting of 2 or more single-family, detached residential structures on a single parcel, with the exception that provisions of this section limiting condominium subdivisions to single-family, detached structures shall not apply to condominium developments which are reviewed and approved through a special use permit.

§ 152.197 REQUIRED PLANS AND CONDITIONS.

- (A) Condominium lots.
 - (1) The Condominium Subdivision Plan shall indicate specific parcel dimensions with front, rear, and side condominium lot lines allocated to each condominium dwelling.
 - (2) For the purpose of this section and to assure compliance with the provisions, herein, these parcels shall be referred to as condominium lots.
 - (3) The description, size, location, and arrangement of the condominium lots shall conform to the requirements of a conventional platted subdivision.
 - (4) All condominium subdivision lots shall be deeded as limited common elements for the exclusive use of the owners of the condominium subdivision units.
- (B) Area and bulk requirements. Each condominium dwelling unit shall be located within a condominium lot.
 - (1) The maximum size condominium lot per dwelling unit, the maximum dwelling unit height, the minimum yard setbacks, the minimum elevation, width of principal structure, and the maximum percentage of condominium lot area covered by all structures shall conform with the requirements of the zoning district in which the condominium dwelling unit is located.
 - (2) The condominium lot size and the required setbacks shall be measured from the designated front, rear, and side condominium lot lines.

- (3) Side condominium lots lines shall be essentially at right angles to straight roads and radial to curved roads.
- (4) Lot depth.
 - (a) Narrow deep condominium lots shall be avoided.
 - (b) The depth of a condominium lot generally shall not exceed 2½ times the width as measured at the building line.
- (5) Corner condominium lots shall have extra width to permit appropriate building setbacks from both roads or orientation to both roads.
- (6) Condominium lots shall contain a landscaped easement at least 20 feet wide along any public or private road to restrict access to the public or private road, minimize noise, and protect outdoor living areas.
- (7) Condominium lots extending through a block and having frontage on 2 local roads shall be prohibited.
- (8) Unless the circumstances are such that the land area is not of sufficient size to develop secondary roads, all condominium lots shall front on secondary roads.
- (9) Condominium lots along M-113 and County Road 611 (a.k.a. Garfield or N. Brownson) and other Grand Traverse County primary roads shall not front but shall back up to the roads.
- (10) All condominium lots shall front upon a public road, private road, or frontage road. Variations to this requirement may be made in the case of an approved clustered development.

§ 152.198 STREETS.

If a condominium subdivision is proposed to have private streets, they shall be designed to at least the minimum design, construction, inspection, approval, and maintenance requirements of the Village of Kingsley and/or Grand Traverse County Road Commission for private roads.

§ 152.199 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS.

Water supply and sewage disposal systems shall comply with all the requirements of the Village of Kingsley.

§ 152.200 TREES.

- (A) One street tree shall be planted adjacent to the road right-of-way for each 24 lineal feet of frontage, with a minimum of 2 trees per condominium lot.
- (B) At least 3 trees shall be provided for a corner condominium lot.
- (C) The tree species shall comply with Soil Conservation District recommendations for urban forest use.

§ 152.201 WETLAND AND FLOOD PLAIN RESTRICTIONS.

- (A) There shall be no development or modification of any kind within a wetland or flood plain area without their first having been issued a wetlands permit by the Department of Natural Resources and/or an earth change permit as appropriate.
- (B) Lands subject to high organic content soils, high water table, flooding, or otherwise deemed by the Village of Kingsley Planning Commission to be uninhabitable shall not be used for

residential purposes, or for uses that may in the judgment of the Village of Kingsley Planning Commission increase the danger to health, life, or property or increase the flood hazard.

- (C) The land within a condominium subdivision shall be set aside for other uses, such as parks or other open space.

§ 152.202 PLANS REQUIRED FOR THE CONTROL OF EROSION AND SEDIMENTATION.

(A) Soil erosion and sedimentation control plans.

- (1) In the event that any developer shall intend to make changes in the contour of any land proposed to be developed, or changes in use by grading, excavating, or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the same shall only be accomplished after the owner of the land or his or her agent has submitted to the Village of Kingsley Planning Commission for approval a plan for erosion and sedimentation controls, unless there has been a prior determination by the Kingsley Village Planning Commission that the plans are not necessary.
- (2) The plans shall contain adequate measures for control of erosion and siltation, where necessary, using the guidelines and policies contained herein and the standards and specifications of the Grand Traverse County Soil Conservation District, if any.
- (3) The Kingsley Village Planning Commission shall review these plans as submitted and shall take necessary steps to ensure compliance by the developer with these plans as finally approved.
- (4) In circumstances where soil erosion control comes under the jurisdiction of Public Act 347 of 1972, being M.C.L.A. §§ 282.101 to 282.117 (1 acre or more), the developer shall submit a set of plans approved by the Soil Erosion Control Officer.
- (5) The village requires applicants to submit approval letters from all applicable agencies at the time of application.

(B) The following control measures should be used for an effective erosion and a sediment control plan.

- (1) The smallest partial area of land should be exposed at any 1 time during development.
- (2) When land is exposed during development, the exposure should be kept to the shortest period of time.
- (3) Where necessary, temporary vegetation and/or mulching should be installed and maintained to remove sediment from run-off waters from land undergoing development.
- (4) Sediment basins (debris basins, silting basins, or silt traps) should be installed and maintained to remove sediment from run-off waters from land undergoing development.
- (5) Provisions should be made to effectively retain on the property any increased run-off caused by changed soil and surface conditions during and after development.
- (6) The permanent final vegetation and structures should be installed as soon as practical in the development.

- (7) The development plan should be fitted to the topography and soils so as to create the least erosion potential.

§ 152.203 PLAN APPLICATION; DATE AND INFORMATION REQUIRED.

- (A) Application. The condominium subdivision developer shall submit a written application to the Kingsley Village Zoning Administrator for approval of the condominium subdivision plan and also the fee established by the Kingsley Village Council for review of the plans.
- (B) Size and scale. The condominium subdivision plan may be on paper and shall be not less than 24 inches by 36 inches, at a scale of at least 1 inch to 100 feet showing the date and north arrow.
- (C) Information required. The following shall be shown on the condominium subdivision plan or submitted with it:
- (1) The name of the proposed condominium subdivision;
 - (2) Names, addresses, and telephone numbers of the proprietor and the surveyor preparing the plan;
 - (3) Location of the condominium subdivision, giving the name of the village, township, and county;
 - (4) Legal description of the property;
 - (5) The names of property owners, zoning, and use of abutting lands;
 - (6) Statement of intended use of the proposed condominium, such as residential single-family, 2-family, and multiple housing;
 - (7) A map of the entire area scheduled for development and all contiguous land owned by the proprietor, if the proposed plan is a portion of a larger holding intended for subsequent development;
 - (8) A location may show the relationship of the proposed plan to the surrounding area;
 - (9) The land use and existing zoning of the proposed condominium subdivision;
 - (10) Location, type, dimensions, and proposed use of all existing structures;
 - (11) Condominium lot lines and the total number of condominium lots by block;
 - (12) Contours shall be shown on the condominium subdivision plan at 5-foot intervals where slope is greater than 10%, and 2-foot intervals where slope is 10% or less;
 - (13) A site report as described in the rules of the State Department of Public Health. The site report is required if the proposed condominium subdivision is not to be served by public sewer and water.
 - (14) Proposed and existing storm and sanitary sewers, water mains, and their respective profiles, or indicate alternative methods;
 - (15) Right-of-way easements, showing location, width, and purpose;
 - (16) The location and types of all significant existing vegetation, water courses and bodies, flood plains, and water retention areas, and soil types;
 - (17) In the event soils or vegetation types indicate wetlands may be present, a wetlands determination by the Michigan Department of Natural Resources as to the existence of any wetlands on the property; and
 - (18) A statement of deed restrictions and bylaws as applicable.

§ 152.204 PRELIMINARY ENGINEERING PLANS.

- (A) The proprietor shall submit to the Village of Kingsley 10 sets of preliminary engineering plans for streets, water, sewers, and other required public improvements.
- (B) The engineering plans shall contain enough information and detail to enable the Kingsley Village Planning Commission to make a determination as to the conformance of the proposed improvements to the applicable regulations and standards of the Village of Kingsley.

§ 152.205 LIGHTING STANDARDS.

- (A) Generally. Where street lighting is to be provided within the development, the lighting shall be designed, constructed, and located so as to minimize light pollution and shall conform to the following standards.
- (B) Standards.
 - (1) All lighting shall be shielded and directed downwards.
 - (2) Light sources shall be located and designed so as to prevent light from being directed outside the boundaries of the development.
 - (3) Light poles and fixtures shall be installed at a height no taller than 16 feet.
 - (4) A greater number of low area lights are favored over higher lights.
 - (5) All exterior lighting shall be from high-pressure sodium light sources with shielded down lighting and nonprojecting lens.

§ 152.206 REVIEW PROCEDURES.

- (A) Distribution to authorities.
 - (1) The Village of Kingsley Zoning Administrator shall deliver the proposed condominium subdivision plan to the Village of Kingsley Planning Commission and the Kingsley Village Council for review.
 - (2) The Village Zoning Administrator shall retain 1 copy and send 1 copy to the Grand Traverse County Fire Marshal.
- (B) Planning Commission Review.
 - (1) The Village of Kingsley Planning Commission shall review the condominium subdivision plan and the reports of the Grand Traverse County Road Commission, Grand Traverse County Drain Commissioner/Soil Erosion Officer, the Grand Traverse County Health Department, Michigan Department of Public Health, and the Village Zoning Administrator.
 - (2) The Village of Kingsley Planning Commission shall hold a public hearing on the proposed condominium plan after at least 1 publication in a newspaper of general circulation in the village at least 15 days prior to the date of the hearing. The public hearing shall be held and notice provided pursuant to § 152.274.
 - (3) If following the review and the public hearing prescribed above, the Village Planning Commission determines that the proposed plan meets all requirements of this chapter, the Planning Commission shall send notice of action taken with comments to the Kingsley Village Council.
 - (4) If the condominium subdivision plan does not meet all requirements, the Village Planning Commission shall recommend disapproval of the plan by the Village

Council. The Planning Commission shall state its reason in its official minutes and forward same to the Kingsley Village Council, and recommend that the Kingsley Village Council disapprove the condominium subdivision plan until the objections causing disapproval have been changed to meet with the approval of the Village Planning Commission.

(C) Kingsley Village Council Review.

- (1) The Village Council shall not review, approve, or reject a condominium subdivision plan until it has received from the Planning Commission its report and recommendations.
- (2) The Kingsley Village Council may consider the condominium subdivision plan at its next meeting after receipt of the recommendations from the Village Planning Commission.
- (3) The Village Council shall either approve the condominium subdivision plan, reject the plan and give its reasons, or table the proceedings pending changes to the plan to make it acceptable to the Kingsley Village Council.

§ 152.207 CONDITIONS AND DURATION OF APPROVAL.

(A) Conditions. The approval of the Kingsley Village Council will indicate that the proposed condominium subdivision plan meets the provision of § 141 of the Condominium Act, Public Act 59 of 1978, M.C.L.A. §§ 559.101-559.276 relating to the ordinances and regulations of Kingsley Village, but does not cover additional permits that may be required after the master deed has been recorded.

(B) Duration.

- (1) Approval of the condominium subdivision by the Kingsley Village Council shall be for a period of 1 year from the date of its approval by the Village Council.
- (2) If no master deed is recorded with the Grand Traverse County Register of Deeds Office within 1 year of approval, the approval shall be considered null and void.
- (3) The Village Council may extend the 1-year period if applied for and granted in writing.

(C) Condominium subdivision plan approval contract.

(1) Contract

- (a) If the Kingsley Village Council approves the condominium subdivision plan, it shall instruct the Village of Kingsley's attorney to prepare a contract setting forth the conditions upon which the approval is based.
 - (b) The contract, after approval by the Village Council, shall be entered into between the Village of Kingsley and the petitioner prior to the issuance of a land use permit for any construction in accordance with the approved condominium subdivision plan.
 - (c) All reasonable costs, as established by the Kingsley Village Council, related to the preparation of the contract shall be paid by the petitioner to the Village of Kingsley Treasurer prior to issuance of any land use permits.
- (2) As a condition of the approval of the condominium subdivision plan by the Kingsley Village Council, the Village Council may require the petitioner to furnish a cash bond or irrevocable bank letter of credit from a bank chartered in the State of

Michigan in the amount of the cost plus an additional 10% of the cost of the proposed improvements to common land, as approved by the Village Zoning Administrator, guaranteeing the completion of the improvement within a time to be set by the Kingsley Village Council.

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ARTICLE 13. ACCESSORY DWELLING UNITS

§ 152.210 PURPOSE.

The intent of permitting accessory dwelling units in certain situations is to:

- (A) Create new housing units while respecting the look and scale of single-family dwellings.
- (B) Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives.
- (C) Allow for more efficient use of existing housing stock and village infrastructure.
- (D) Provide a mix of housing that responds to changing family needs and smaller households.
- (E) Provide a means for residents to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services.
- (F) Provide a broader range of accessible and more affordable housing within the village.

§ 152.211 DEFINITIONS.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY DWELLING UNIT. A habitable living unit added to, created within, or detached from a single-family residential dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation. All ACCESSORY DWELLING UNITS are to be a secondary housing unit to the main residence on the same lot.

§ 152.212 CONDITIONS AND REQUIREMENTS.

An accessory dwelling unit (ADU) is allowed on lots in the Village Residential District (VR) or the Single Family Residential District (R-1) as a special use subject to the following conditions:

- (A) Only one ADU may be created per lot and it may be attached or detached from the main residence if it is part of a garage structure.
- (B) The owner of the lot in which the ADU is created must continue to occupy at least one of the dwelling units as their primary residence.
- (C) The architectural character of a combination garage and ADU shall have the same architectural character as the primary residential structure.
- (D) Any new separate outside entrance serving an ADU shall be located on the side or in the rear of the building and it shall be a separate entrance from the primary residential unit.
- (E) The ADU, excluding any garage area and other non-living areas such as workshops or greenhouses, shall not exceed 33% of the total square footage of the main building and the ADU combined after modification. The ADU shall not contain less than 300 square feet or more than 600 square feet.
- (F) An ADU may not be occupied by more than three people nor have more than two bedrooms.
- (G) Off-street parking shall be provided for the owner-occupant(s) and tenants on the lot, with a minimum of three or a maximum of four parking spaces.
- (H) All ADU's must be connected to the village sewer and water utilities.

- (I) All proposed ADU will require a detailed site plan review (§ 152.228) and a special use permit (§ 152.229) with a recommendation from the Planning Commission and an approval from the Village Council.
- (J) The ADU can not be sold separately from the primary residence.
- (K) The ADU will require a separate sewer and water connection from the primary residence.
- (L) The total number of pets allowed on the lot shall not exceed four as per § 152.038(B).
- (M) The Village Zoning Administrator may do yearly inspections to determine if the ADU is in compliance with the zoning ordinance special use conditions.
- (N) The construction of any ADU must be in conformity with all state building codes, Grand Traverse County codes and other local ordinances.

§ 152.213 YARD AND HEIGHT REQUIREMENTS.

The same yard and building height requirements shall apply as in the zoning district that the ADU lot is located and allowed.

- (A) VR District (Village Residential District § 152.090).
- (B) R-1 District (Single-Family Residential District § 152.035).

§ 152.214 NOTICE OF USE REQUIREMENTS FOR AN ACCESSORY DWELLING UNIT.

- (A) Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner of the property will occupy one of the dwelling units on the premises, as the owner's primary residence.
- (B) The notarized letters are required to be recorded with the Grand Traverse County Register of Deeds in the chain of title to the property. Documentation of the recording must be provided to the Village Zoning Administrator, prior to occupancy of the ADU.
- (C) When the property with an ADU is sold, the new owner(s), if they wish to continue to exercise the permit, must, within 30 days of the sale, submit a notarized letter to the Village Zoning Administrator stating that they will occupy one of the dwelling units on the property as their primary residence.

ARTICLE 14. SUPPLEMENTARY PROVISIONS

§ 152.220 ACCESSORY BUILDINGS.

- (A) Generally. Accessory buildings, except for uses otherwise regulated by this chapter, shall be subject to the following regulations.
- (B) Regulations.
- (1) Where an accessory building is structurally attached to a main building, it shall be deemed part of the building and shall be subject to, and must conform to, all regulation of this chapter applicable to a main building.
 - (2) Accessory buildings shall not be erected in any required front yard setback.
 - (3) An accessory building shall not occupy more than 25% of a required rear yard.
 - (4) In no instance shall an accessory building exceed the ground floor area of the main building.
 - (5) No detached accessory building shall be located closer than 10 feet to any main building, nor shall it be located closer than 10 feet to any side or rear lot line.
 - (6) In no instances shall an accessory building be located within a dedicated easement or right-of-way.
 - (7) A detached accessory building in a residential district shall not exceed the maximum permitted height for the district. However, the vertical exterior surface of the building, not forming a part of the roof, shall not exceed a height of 14 feet, measured from grade to the top plate of the wall.
 - (8) Accessory buildings in any commercial or industrial district may be constructed to equal the maximum permitted height or structures in the district.
 - (9) In the case of a corner lot that adjoins a public road/street right-of-way, a front yard setback shall be maintained along each side of the lot adjacent to the right-of-way and no accessory building shall project beyond the required front yard line on either road/street.
 - (10) No accessory building shall be constructed prior to the construction of its principal dwelling.
 - (11) A land use permit shall first be obtained from the Zoning Administrator prior to construction of any accessory building.
 - (12) The structure of an accessory building shall be of durable standard construction material and have a finished exterior, and be permanently affixed to the property.
 - (a) For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.
 - (b) STANDARD CONSTRUCTION MATERIALS. Concrete block, wood or metal framing material consistent with a conventional built home or garage, including finished exterior materials. It shall not include structures of aluminum or plastic pole construction.
 - (13) Temporary buildings shall not be used as an accessory building.

§ 152.221 FENCES.

- (A) Fence regulations are intended:

- (1) To protect the character of the neighborhood;
 - (2) Enable the use of fencing to define property lines;
 - (3) To define developments;
 - (4) To act in a decorative manner;
 - (5) To enclose parks and play areas; and/or
 - (6) To ensure public safety.
- (B) Fences permitted in residential districts are subject to the following regulations.
- (1) Fences on all lots within a recorded plat or site condominium, which enclose property and/or are within a required side or rear yard setback, shall not exceed 6 feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house or the minimum front yard, whichever is a greater distance from front lot line.
 - (2) Decorative fencing that does not exceed 4 feet in height shall be permitted in the front yard, with a minimum of 2-foot setback from the sidewalk or front lot line/road right-of-way.
 - (3) On any corner lot or parcel, fencing shall be made of a type so as not to interfere with traffic visibility across a corner.
 - (4) Materials.
 - (a) Fences shall be constructed of suitable, stable, and permanent materials, and set in the ground to establish stability.
 - (b) The only exceptions are snow fences that may be used November 1 to March 1 and/or temporary fencing that might be used during the course of construction of a residence or commercial/industrial building.
 - (c) Fences shall not contain single strand wire, barbed wire, electric current, or a charge of electricity.
 - (5) Maintenance.
 - (a) Fences shall be installed/placed so that the finished side is facing outward.
 - (b) Fences must be maintained by the property owner who installed it.
 - (c) The public side as well as the private side must be maintained in a neat and safe condition.
 - (6) Fences which enclose parks or playgrounds within or adjacent to a recorded plat shall not obstruct vision to an extent greater than 25% of their total area.
 - (7) No person shall erect, alter, or replace a fence without first obtaining a fence permit.
- (C) Fences permitted in any zoning district other than residential are subject to the following regulations.
- (1) Fences on all lots within a recorded plat or site condominium, which enclose property and/or are within a required side or rear yard setback, shall not exceed 6 feet in height in Commercial, or 8 feet in height in Industrial, as measured from the surface of the ground.
 - (2) The height of fences proposed in the Planned Unit Development District shall be regulated by the height of fencing allowed in the underlying zoning district.
 - (3) Fences must meet the same requirements as set forth above in § 152.221(B)(2)-(7).

(D) Fences permitted for defining development projects are subject to the following regulations.

- (1) Fences on all lots within a recorded plat or site condominium, which enclose property and/or are within a required side or rear yard setback, shall not exceed 6 feet in height in Commercial, or 8 feet in height in Industrial, as measured from the surface of the ground.
- (2) Fences must meet the same requirements as set forth above in § 152.221(B)(3)-(7).

§ 152.222 NIGHT SKY AND LIGHTING.

(A) Introduction.

- (1) Night sky regulations are intended to protect the character of the night sky from light pollution originating from light fixtures.
- (2) Night sky regulations have recently evolved in response to the loss of “starry night,” brought about by urbanization and reliance on nighttime lighting.
- (3) Unpolluted night skies are important for those pursuing astrology, for energy conservation, safe air travel, and to preserve community character.

(B) Intent and purposes.

- (1) Minimize light trespass and light straying from artificial light sources;
- (2) Minimize harshly lighted surfaces and direct glare in order to enhance nighttime vision;
- (3) Encourage lighting practices and lighting systems that are designed to conserve energy; and
- (4) Provide for adequate night-time safety, utility, security and productivity.

(C) Requirements.

- (1) Areas and types of lighting not covered by this chapter:
 - (a) Residential decorative lighting (i.e. porch lights, low level lawn lights, and special seasonal lights such as Christmas decorations);
 - (b) Emergency lighting;
 - (c) Any lighting required by the FCC or FAA;
 - (d) Underwater lighting of swimming pools and other water features;
 - (e) Temporary lighting for television, theatrical, performance areas;
 - (f) Construction sites;
 - (g) Community festivals;
 - (h) Seasonal and holiday lighting provided that the lighting does not create direct glare onto other properties or upon the public rights-of-way;
 - (i) Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fuels; and
 - (j) Luminaries used to illuminate the flag of the United States of America provided the lighting of the flag or pole shall not create a direct glare beyond the property boundary.
- (2) Items specifically included in this chapter but not limited to:
 - (a) Residential yard lights whether building-mounted or pole-mounted;
 - (b) Commercial and industrial parking lot lighting and site lighting;
 - (c) Privately-owned roadway lighting; and

- (d) Building facade lighting.
- (3) All outdoor lighting shall be constructed and designed to meet or exceed the following minimum requirements. Light measurements shall be taken at the ground level.
 - (a) The average lighting values for areas intended to be lit on commercial, industrial and institutional parcels shall not exceed 1 foot-candle on average.
 - (b) Gas station services areas for filling fuel shall not exceed 12.5 foot-candles on average.
 - (c) Outdoor display areas including, but not limited to, automobile or equipment dealer display or storage lots shall not exceed 12 foot-candles on average during the hours the business is open to the public or until 11:00 p.m.
 - (d) Direct or reflected outdoor lighting shall be designed and located to be confined to the site for which it is accessory. The maximum lighting levels at the property lines of any other property shall not exceed 0 foot-candles.
 - (e) Site lighting for non-residential uses shall not exceed 1.5 foot-candles on average when a use is not open for business.
- (4) Lighting shall be designed and constructed in such a manner as to:
 - (a) Ensure that direct or directly reflected light, unless part of a street lighting or access road lighting, is confined to the development site; and
 - (b) Lamps and luminaires shall be hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way.
 - (c) The glare free area shall extend to a height of 8 feet above the highest ground and the tallest object on the neighboring property and a public road right-of-way.
 - (d) Lighting fixtures shall have 100% cut off above the horizontal plane at the lowest part of the point light source.
 - (e) That is, the light rays may not be emitted by the luminaire at angles above the described horizontal plane, as may be certified by photometric test.
 - (f) The intensity of light at any angle above a cut off of 75 degrees shall be less than 10% of the peak candela for the luminaire.
- (5) With the exception of automobile and similar outdoor sales areas where a high level of color rendition is essential to the activity being conducted.
- (6) Outdoor recreation areas and amusement area lighting will be allowed to use standard color metal sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling or glare guards to meet the requirements of this section.

§ 152.223 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES AND NONCONFORMING USES OF STRUCTURES AND PREMISES.

(A) Intent.

- (1) Nonconformities are lots, uses, structures, buildings, or site plans for developed sites which do not conform to 1 or more provisions or requirements of this section, but which were lawfully established prior to the date of adoption or amendment of this section. The non-conformities are considered to be incompatible with the current or intended use of land, buildings or structures, in the district in which they are located. This section is intended to meet the objectives stated below by establishing regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of non-conformities, and specify the circumstances and conditions under which nonconformities shall be permitted to continue.
- (2) The objectives of this section are to eliminate, or bring into compliance, lots, buildings, structures and uses which legally existed at the date of adoption of this chapter, but do not meet the current standards of this section. This section also has special provisions to permit certain nonconforming situations considered to be less harmful to continue under certain conditions, but to discourage their expansion, enlargement, or extension. The standards of this section are intended to accomplish the following:
 - (a) Terminate and remove any use, building, accessory structure or any combination thereof that was established after the effective date of this section and in violation of this section. The uses, buildings or accessory structures are classified as illegal nonconformities and shall not receive any of the rights, privileges or protection conferred by this section for legal nonconforming situations.
 - (b) Eliminate nonconforming uses which are more intense than the uses permitted within the zoning district and are considered to be incompatible with permitted uses, or encourage their redevelopment into a more conforming use.
 - (c) Permit legal nonconforming buildings, structures or uses to remain until they are discontinued or removed, but to discourage their survival.
 - (d) Encourage a gradual upgrading to a more conforming status of site plans which were developed in compliance with the standards at the time of their construction, but which do not meet the site standards of this chapter and its amendments.
 - (e) Encourage the combination of contiguous nonconforming lots of record to create lots which conform to current standards, to avoid the public health, safety and welfare problems associated with the over-crowding of land.
- (B) Applicability. To avoid undue hardship, nothing in this section shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this section, upon which actual building construction has been diligently carried on and there is a valid building permit. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.

(C) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT. The relinquishment of land or cessation of the use of the land by the owner or lessee without any intention of transferring rights to the land to another owner or of resuming use of the land or building (such as, a discontinuance and an indication of an intent to abandon).

DISCONTINUANCE. A vacation of a lot, building or structure; or a ceasing of the activities related to the nonconforming situation.

EFFECTIVE DATE. Whenever this section refers to “effective date” of this section, it shall be deemed to include the effective date of any amendments if the amendments created or increased the nonconforming situation.

LEGAL NONCONFORMITIES. Certain existing lots, buildings, structures, site plans and uses of land were lawful prior to the effective date of this section, but have become nonconforming under the terms of this section and its amendments.

ILLEGAL NONCONFORMITIES. Any lot, use, building, structure or any combination thereof that was established in violation of this section at the effective date of this section.

NONCONFORMING BUILDING. A building or portion thereof lawfully existing at the effective date of this section, which does not meet the minimum size, setbacks, height or other building provisions of the ordinance in the district in which it is located. (Example: a house which does not meet the required front yard setback).

NONCONFORMING LOT. A lot of record lawfully existing at the effective date of this section that does not meet the minimum area or lot dimensional requirements for the district in which it is located. (Example: a 8,000 square foot lot of record in a district which requires a minimum 10,000 square foot lot).

NONCONFORMING SIGN. A sign lawfully existing on the effective date of this section, or amendments thereto, which does not meet all the standards or regulations of this section. (Example: a business with a 20-foot tall pole sign when the current Zoning Ordinance allows only a 10-foot tall ground sign).

NONCONFORMING SITE PLAN. A development on a site which met ordinance requirements for site design elements at the time the site was developed, such as the amount of parking, parking lot pavement or landscaping; but which does not meet the current site design standards of the village. (Example: a retail store with 10 parking spaces when the current Zoning Ordinance requires 15 parking spaces).

NONCONFORMING ACCESSORY STRUCTURE. An accessory structure or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, that does not conform to the provisions of the ordinance in the district in which it is located. (Example: an accessory deck which does not meet current setback standards).

NONCONFORMING USE. A use which lawfully occupied a building or land at the effective date of this section, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

(D) Nonconforming uses of land, buildings and accessory structures. Where, at the effective date of adoption or amendment of this section, a lawful use on open land, a lot(s), building(s) or accessory structure(s) exists that is made nonconforming by this section or its amendments, such use may be continued, as it remains otherwise lawful, subject to the following provisions:

- (1) Expansions. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the effective date of this section, but no such use shall be enlarged, expanded or extended to occupy a greater area of land or greater floor area than was occupied at the effective date of this section.
- (2) Accessory uses and structures. No new accessory use, building or structure shall be established.
- (3) Relocation. The nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this section.
- (4) Abandonment or discontinuance. If such nonconforming use on open land is abandoned or discontinued for any reason for a period of 6 months, or a nonconforming use within a building or structure is abandoned or discontinued for more than 1 year, except as noted below, such use shall not be re-established. Subsequent use of such land shall conform to the regulations specified by this section for the district in which such land is located.
- (5) Special standards for single-family homes in a nonresidential district.
 - (a) A single-family residential dwelling in a zoning district (other than the DDA district) which does not permit such a use may be expanded to occupy the floor area necessary for living purposes subject to approval by the Zoning Board of Appeals.
 - (b) A single-family dwelling and its accessory structures, in a zoning district which does not permit such use may be continued, replaced, repaired or remodeled if damaged by flood, fire, or vandalism, if approved by the Zoning Board of Appeals. The approval requires a finding that the resulting building footprint and floor area will be the same size or smaller than that of the building before such change. Replacement of such nonconforming single-family building shall commence no sooner than receiving a valid building permit and no later than 6 months of the date of damage. Work shall be diligently pursued toward completion. The applicant may be required to provide the village with evidence, visual or otherwise demonstrate to the satisfaction of the Zoning Administrator that work is being diligently pursued. Failure to complete replacement or diligently work toward completion shall result in the loss of legal, nonconforming status unless good cause for the delay is accepted at a hearing before the Zoning Board of Appeals.

- (6) Change in use. Except for single-family dwellings as permitted above, a nonconforming use shall not be enlarged, extended, constructed, reconstructed or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. If no structural alterations are made, any nonconforming use of a building, or building and land in combination, may be changed to another nonconforming use if the Zoning Board of Appeals, either by general rule or by making findings in the specific case, finds the proposed use is more appropriate to the district than the existing nonconforming use. In permitting the change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this section. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
 - (7) Nonconforming use in combination with nonconforming building. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming use status of the land.
 - (8) Removal. Where nonconformity use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming use status of the land.
 - (9) Exceptions. Any use for which a special exception, variance or special land use permit has been granted as provided in this section shall not be deemed a non-conformity.
- (E) Nonconforming lots of record. The following regulations shall apply to any non-conforming lot of record or non-conforming lot described in a deed or land contract executed and delivered prior to the effective date of this section or amendment thereto:
- (1) Use of nonconforming lots. Any non-conforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this section, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this section. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that the lot is in conformance with applicable yard setback, minimum floor area, maximum lot coverage, maximum height requirements and all other requirements for the district in which it is located (see subsection (2)). Yard requirement variances may be obtained through approval of the Zoning Board of Appeals.
 - (2) Variance to area and bulk requirements. If the use of a non-conforming lot requires a variation of the minimum floor area and bulk (minimum setback and maximum height) requirements, then such use shall be permitted only if a variance is granted by the Zoning Board of Appeals (see subsection (3)).
 - (3) Evidence. To develop a nonconforming lot(s) under the provisions of subsections (1) and (2), the applicant is required to submit evidence that ownership of the lot was not under contiguous single ownership with other lots which could have been combined into a conforming or more conforming lot.

- (4) Nonconforming contiguous lots under the same ownership. The following regulations shall apply to nonconforming contiguous lots under the same ownership.
- (a) Requirements.
 - (i) If 2 or more lots or combination of lots with contiguous frontage are or have been under single ownership of record at the time of the adoption or amendment of this section, and if all or part of the individual lots or combination of lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an individual, undivided parcel for the purposes of this section. No portion of division of such a parcel which does not meet the lot width or area requirements established by this section shall be used or occupied. Any altering of lot lines or combination of lots shall result in lots which conform to the requirements of this section.
 - (ii) Notwithstanding subsection (E)(4)(a), nonconforming contiguous lots or portions of the lots under the same ownership in the assessor's map of the village, the plat of the village, the plat of the Village of Paradise, Brownson's First Addition to the Village of Paradise, Brownson's Second and Third Additions to the village, and Wynkoop's First Addition to the Village of Paradise, may be used or occupied if they meet 60% of the lot width or area requirements established by this section
 - (b) No portion of the parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this section, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this section.
 - (c) Any combination, in whole or in part, of non-conforming lots of record shall result in lots which conform to the requirements of this section to the maximum extent feasible.
 - (d) Once any combination which creates a conforming lot occurs, the resulting lot shall not retain nonconforming lot of record status and will hereafter be required to comply with the lot requirements of this section.
- (F) Nonconforming buildings and structures. Where a lawful building or structure exists at the effective date of adoption or amendment of this section that could not be built under the terms of this section by reason of restrictions on area, lot coverage, height, yards, landscape buffer, off-street parking, loading space, minimum setback, or other characteristics of the structure or its location on the lot, such building or structure may be continued provided it remains otherwise lawful, subject to the following provisions:
- (1) Permitted expansions.
 - (a) An expansion (footprint or floor area) of a nonconforming building or structure shall be permitted on a conforming side when all of the following conditions exist:

- (i) Only 1 side of the building or structure does not conform to width setback requirements/
 - (ii) The side which is nonconforming provides at least 90% of the required setback.
 - (iii) The expansion will conform to all setback and height requirements.
 - (b) Except as noted above, no building or structure may be enlarged unless a variance is granted by the Zoning Board of Appeals.
- (2) Replacement of a nonconforming single-family dwelling. A nonconforming building used as a single-family residence, and its accessory structures, may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident or other natural disaster if approved by the Zoning Board of Appeals. The approval requires a finding that the resulting building footprint will be the same size or smaller than that of the building before such change or that the building will become more conforming. Replacement of such a nonconforming single-family building shall commence within 1 year of the date of damage and work shall be diligently pursued toward completion. Failure to complete replacement or diligently work toward completion shall result in the loss of legal, nonconforming status unless good cause for the delay is accepted at a hearing before the Zoning Board of Appeals.
- (3) Damaged nonconforming buildings and structures. Except as noted in subsection (2), a nonconforming building or structure, which is damaged by flood, fire or vandalism to an extent of more than 50% of its market value prior to damage (as described in subsection (8)), exclusive of the foundation, shall be reconstructed only in conformity with the provisions of this section, unless the lot is a nonconforming lot of record, in which case the provisions of division (E) also apply. The nonconforming building may be replaced provided replacement is commenced within 1 year of the date of damage and is being diligently pursued toward completion. Failure to complete replacement shall result in the loss of legal, nonconforming status unless good cause for the delay is accepted at a hearing before the Zoning Board of Appeals.
- (4) Relocation of a nonconforming building or structure. Should any nonconforming building or structure be relocated or moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.
- (5) Safety related repairs, improvements and modernization. Repairs, improvements, or modernization of non-conforming buildings or structures deemed necessary by the County Building Department to keep a non-conforming building structurally safe and sound shall be permitted provided such repairs or improvements do not exceed 50% of the market value (as described in subsection (8)) of the building or structure during any period of 12 consecutive months. This cost/value calculation shall not include any costs associated with modernization of electrical, plumbing, heating or cooling systems to meet Building Code requirements. Any repairs, improvements, and modernization shall not result in an enlargement of the non-conforming structure. However, if a non-conforming structure or a structure containing a non-

conforming use becomes physically unsafe or unlawful due to lack of maintenance and repairs and is declared as such by the County Building Department, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

- (6) Non-safety improvements and modernization. Improvements or modernization of non-conforming structures which are not deemed necessary by the County Building Department to keep a non-conforming building structurally safe and sound shall be permitted provided such repairs or improvements do not exceed 25% of the market value of the structure (as described in subsection (8)) during any period of 12 consecutive months. Any such improvements or modernization shall not result in an enlargement of the non-conforming structure.
- (7) Elimination of nonconformity. In the event a non-conforming situation is removed, the corresponding section of the building or structure shall thereafter conform.
- (8) Market value. For the purpose of this section, market value shall be determined by an acceptable independent appraisal provided by the applicant. The Village Assessor shall review the appraisal. The value of the repairs or improvements shall be based on a written estimate from a licensed contractor provided by the applicant. This estimate shall be reviewed by the village or the County Building Department.

(G) Nonconforming sites.

- (1) The intent of this section is to permit improvements and minor modifications to a conforming use and building which does not meet all of the various site improvement related regulations of this Zoning Code. The purpose is to allow gradual compliance with the site related requirements, for the entire site, for sites which predate the various Zoning Code standards for landscaping, paving and other non-safety site related items.
- (2) Such improvements or expansions may be permitted by the Planning Commission during special land use or site plan review without a complete upgrade of all site elements under the following conditions:
 - (a) The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion.
 - (b) The applicant has addressed safety related site issues on the overall site.
 - (c) The improvements or minor expansion will not increase noncompliance with site requirements.
 - (d) A site plan shall be submitted in accordance with § 152.228.

- (H) Change of tenancy or ownership. In the event there is a change in tenancy, ownership, or management, an existing non-conforming use or structure shall be allowed to continue provided there is no change in the nature or character of such non-conformity.
- (I) Unlawful non-conformities. No non-conformity shall be permitted to continue in existence if it was unlawful at the time it was established.
- (J) Recording of non-conforming uses. The Zoning Administrator shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date

of this section. Failure on the part of a property owner to provide the Zoning Administrator with necessary information to determine legal nonconforming status may result in denial of requested or required permits.

- (K) Purchase or condemnation. In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the village, pursuant to Section 3a, Public Act 207 of 1947 (M.C.L.A. § 125.583a), as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of nonconforming uses.
- (L) Summary of nonconforming regulations.

Type of Nonconforming Situation	Regulatory Response
Illegal nonconforming use, building or accessory structure	Must cease
A nonconforming use in a building is discontinued, or a nonconforming building or accessory structure is abandoned for over 1 year	Must cease and all nonconforming rights are terminated (D)(4)
A nonconforming use on open land is discontinued for over 6 months	Must cease and all nonconforming rights are terminated (D)(4)
Change in ownership of a nonconforming lot, use or building	No effect on nonconformity or rights (H)
Establishment of a new nonconforming use	Not permitted, except an existing nonconforming use may be changed to a more conforming use, as determined by the ZBA (D)(6)
Expansion of a nonconforming use within a conforming building	Permitted (D)(1)
Expansion of a nonconforming use outside a building or an expansion of the building which contains a nonconforming use	Not permitted unless approved by the ZBA (D)(1)
Request to construct or expand a principal building on a nonconforming lot when an adjacent nonconforming lot is under the same ownership	Lots must be combined unless variance granted by ZBA (E)(4)
Request to construct or expand a principal building on a nonconforming lot when no adjacent lot is under the same ownership	Requires a variance by the ZBA. This hardship cannot be self created by selling a lot (E)(4)
Request to expand or increase height of a nonconforming building	Expansion which conforms permitted in some cases, a variance from the ZBA may be required (F) (1)

Safety-related maintenance and structural repairs to a nonconforming building or structure (modernization of electrical, plumbing, heating and cooling systems to meet Building Code requirements is permitted regardless of cost)	Permitted up to 50% of the value of the building (F) (5)
Non-safety related renovation or modernization to a building containing a nonconforming use, or to a nonconforming building or accessory structure	Permitted up to 25% of the value of the building (F) (6)
Request to renovate or expand a conforming use or building when the site plan does not meet all of the current site design standards	Reviewed by Planning Commission (G)
Rebuilding of a single-family home in a non-residential zoning district damaged by catastrophe	Permitted to rebuild to same or smaller footprint on previous foundation (D)(5)
Rebuilding of a nonconforming single-family home in a single family residential district	Requires approval by the ZBA (F)(2)
Reestablishment of a nonconforming use or rebuilding of a nonconforming building if damaged by catastrophe	Permitted only if damage is less than 50% of the pre-catastrophe fair market value (F)(3)

(M) Marihuana facilities.

- (1) No marihuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this section.
- (2) A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment thereto.
- (3) Discontinuation of a state medical marihuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

§ 152.224 PARKING AND MOBILITY REQUIREMENTS.

(A) Off-Street Parking Space Requirements. The following parking spaces are required to be furnished off-street:

Use	Required Parking Spaces
Single-family	2 spaces
Two-family	1 space per unit
Multiple-family	1 space per unit
Mobile home park	1.5 spaces per site, plus 1 guest space per 4 sites
Commercial, general	1 space per 400 square feet
Office, general	1 space per 200 square feet

Industrial	1 space per employee on the largest working shift
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(B) Off-Street Parking Site Development Requirements. Off-street parking areas shall be designed, constructed, and maintained in accordance with the following standards and requirements.

- (1) No parking lot shall be constructed until a land use permit is issued by the Zoning Administrator.
- (2) Before the permit is issued, plans and specifications shall be submitted to the Zoning Administrator showing the location, capacity, size, site design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, and any other detailed features essential to design and construction of the proposed parking facility.
 - (a) Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Pattern Lane Width	Maneuvering	Width	Parking Space	Length	Parking Space
0 degrees	12 feet		8 feet		23 feet
Parallel Parking					
30-53 degrees	12 feet		8 ½ feet		20 feet
54-74 degrees	15 feet		8 ½ feet		20 feet
75-90 degrees	20 feet		9 feet		20 feet

- (b) All parking spaces shall be provided access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- (c) Adequate ingress and egress to the parking lot by means of clearly defined drives shall be provided for all vehicles.
- (d) Each entrance and exit to and from any off-street parking lot located in a non-residential zoning district shall be 25 feet distant from adjacent property located in a single-family residential district.
- (e) Except for single-family and 2-family residential lots, all parking areas, including parking spaces and maneuvering lanes, shall be surfaced with a material that shall provide a durable, smooth, and dust-free surface; and shall be graded and drained to dispose of all properly collected surface water so that it does not pollute adjoining waters or property.
- (f) Any lighting shall be so installed as to be confined within and directed into the parking area only.

(C) Off-Street Loading and Unloading Requirements. On the same premises with every building structure or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated public streets.

(D) Parking Waivers. If an applicant can demonstrate to the Planning Commission, through a recommendation by the Zoning Administrator, with a parking study and/or case studies or

by other means, that sufficient parking can be provided that is less than the listed minimum parking requirement, then the amount of parking may be reduced or eliminated.

(E) Access Management.

(1) Cross-Access Connections.

- (a) Wherever feasible, parking lots and drive aisles shall be designed to connect to parking lots and drive aisles on adjacent lots in order to form a continuous secondary access system. For development adjacent to vacant properties, the site shall be designed to provide for a future connection.
- (b) The cross-access connections should occur behind buildings whenever feasible.

(2) Easement Required.

- (a) Easements allowing cross access to and from properties served by a vehicular cross access drive, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the Grand Traverse County Register of Deeds and a copy provided to the Village of Kingsley before issuance of any certificate of occupancy.

(F) Bicycle Parking.

(1) Applicability. A development shall be required to provide bicycle parking in the following instances:

- (a) A new building or addition is constructed.
- (b) A parking area is expanded or reconstructed.

(2) Number.

- (a) A minimum of 1 bicycle rack or locker which can accommodate 4 bicycles total is required per 25 vehicle parking spaces.
- (b) Fractions shall be rounded up to the nearest whole number.

(3) Location.

- (a) Bicycle racks shall be located within 50 feet of the main entrance of a building or inside a building in a location that is easily accessible by bicyclists.
- (b) A pedestrian-accessible walkway shall be available between the outdoor bicycle parking area and the primary building entrance. Public sidewalks may be used to meet this requirement. An aisle width of at least 5 feet shall be provided adjacent to any bicycle parking facilities to allow for maneuvering.
- (c) Bicycle parking placement shall not conflict with pedestrian travel.

(4) Design.

- (a) Designs of bicycle racks, docks, posts, and lockers are encouraged to be decorative, unique, and appropriate to the surrounding area or related to the use being served, and shall be maintained in good repair.
- (b) Bicycle parking design should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided.

§ 152.225 PUBLIC AND MUNICIPAL UTILITIES.

All public utilities are exempt from the provisions of this chapter.

§ 152.226 SCREENING OF UNSIGHTLY AREAS.

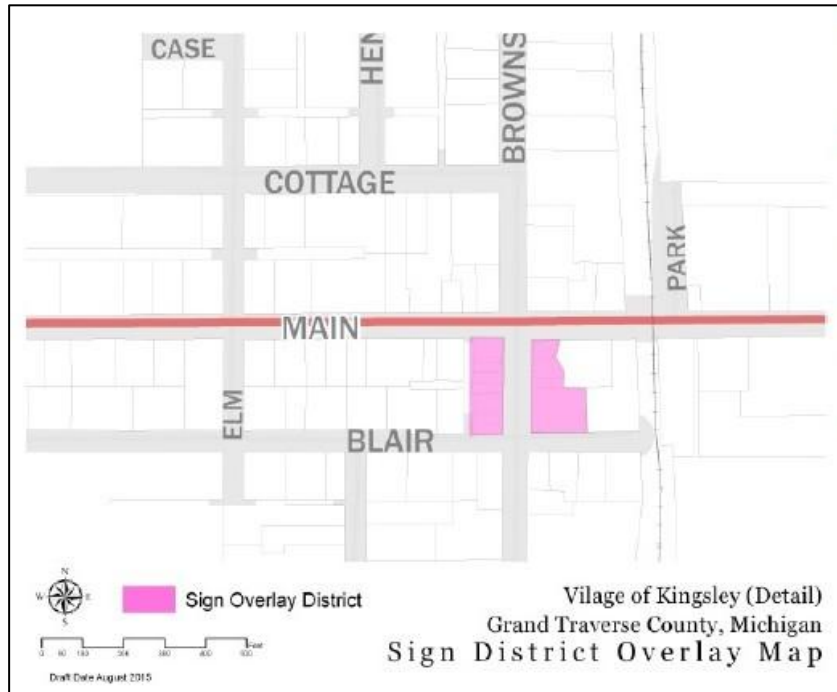
- (A) Screening. In all the commercially zoned areas within the Village of Kingsley, and the other residentially zoned areas using exterior trash disposal, all outside trash receptacles, outside storage areas, and open areas where machinery or vehicles are stored or repaired, shall be screened from view from public sidewalks, streets, and other areas from which the property is visible.
- (B) Materials.
 - (1) Any screening shall be constructed with durable materials, such as quality wood fencing (not plywood), masonry block walls, or galvanized fencing, provided the galvanized fencing shall be “interwoven” with other material of green or earth tone colors, so that the galvanized fencing is relatively opaque.
 - (2) The screening shall be a minimum of 6 feet in height and shall not exceed 8 feet in height.
- (C) Trash receptacles.
 - (1) All trash receptacles, whether dumpsters or otherwise, shall be located on a concrete pad, enclosed by an opaque screen, with the height sufficient to obstruct from view, from a public road, sidewalk, or other open area, any trash or refuse placed in the trash receptacle.
 - (2) In no instance shall the property owner allow, trash, refuse, garbage, or other similar materials to accumulate so that the same would be visible above the required screening.
 - (3) Access to all screened trash receptacles shall be in a manner and fashion that shall not interfere with or block the public right-of-way, and any enclosure (screening) shall be sited so that service vehicles have convenient access to the same without interfering with public use of the right-of-way.
- (D) Information on site plan. Any applicant proposing to construct a commercial building, use a commercial building, or change a use in commercial building shall submit to the Planning Commission a site plan which includes, along with those items required under other sections of this chapter, a designation of the placement of any trash receptacles, as well as the type and nature of any screening proposed to be used.

§ 152.227 SIGN REGULATIONS.

- (A) Purpose.
 - (1) The sign regulations in this section are intended:
 - (a) To maintain and improve the appearance of the village;
 - (b) To conserve community character;
 - (c) To protect property values;
 - (d) To support and compliment land use objectives as set forth in the master plan and this chapter;
 - (e) To prevent traffic hazards;
 - (f) To provide safer conditions for pedestrians;

- (g) To promote economic development, by regulating the construction, alteration, repair, maintenance, size, location, and number of signs; and
 - (h) To ensure that the constitutionally guaranteed right of free speech is protected.
- (2) It is further determined that to allow signs of excessive number and size in the village would:
 - (a) Unduly distract pedestrians and motorists;
 - (b) Create traffic hazards; and
 - (c) Reduce the effectiveness of signs needed to direct traffic.
 - (d) The regulations of this section are intended to provide reasonable identification for businesses and other uses within the community, but not intended to serve for the sole purpose of advertising.
- (B) Applicability.
 - (1) The regulations set forth in this section shall apply to and govern signs in all zoning districts in the Village of Kingsley.
 - (2) No sign shall be erected, repaired, altered, relocated, or maintained except in conformance with the regulations for the district in which it is located, unless the sign is otherwise specifically regulated by special use provision or provisions relating to variances.
- (C) Sign permits.
 - (1) No person shall erect, alter, or replace any sign without first obtaining a sign permit, unless the sign is specifically exempt as provided in this chapter.
 - (2) Application for a permit to erect, alter, or replace a sign shall be made to the Zoning Administrator by submission of the required forms, fees (as may be established by resolution by the Kingsley Village Council) exhibits, and information by the owner of the property on which the sign is to be located, or by the owner's agent or lessee.
 - (3) Sign permits may be issued on the basis of a plan and application submitted to the Zoning Administrator providing the construction design is in compliance with this section.
 - (4) Departures from the approved plan shall result in the applicant being cited for violation and may be punished by fine.
 - (5) The Zoning Administrator shall not approve plans or issue sign permits for any sign that does not conform to the provisions of this chapter.
 - (6) Businesses in the C-2 and Industrial Districts shall be permitted 1 permanent sign, not to exceed 50 square feet to be affixed to, or painted on the building, or 1 permanent monument sign will permitted where lot size and location provide the required setbacks. Signs fronting on M-113 may be 60 square feet. Signs fronting on the M-113 shall be permitted within the building setback line. Monument signs shall not exceed 50 square feet and shall not exceed 8 feet in height.
- (D) Sign overlay map. The following map depicts the sign overlay district referenced in this subchapter. Any signs located within the sign overlay district are subject to alternate standards as identified within this subchapter. All other sign regulations in this chapter

relate to the underlying zoning designation for the lot unless otherwise indicated. Where not district specific, the general sign regulations within this subchapter shall apply to all signs.



(E) Table of sign regulations - permanent signs requiring a permit. The following table and related notes regulate all permanent signs requiring a permit issued by the Zoning Administrator.

Sign Type	Regulations	C-1	C-2	I	Overlay	R-1/R-2	VR	R-3
Free-Standing Sign	Sign area (sq. ft.)	40	40	40	Not permitted	Not permitted	Not permitted	Not permitted
	Height (ft.)	6	6	6				
	Maximum #	1	1	1				
	Addl. reqs.	b, c, e, h, j	c, f, i, j	c, f, i, j				
Wall Sign	Sign area (sq. ft.)	40	1.5 sq. ft./linear ft. bldg. width Max. 60 sq. ft.	1.5 sq. ft./linear ft. bldg. width Max. 60 sq. ft.	1 sq. ft./linear ft bldg. width Max. 36 sq. ft.	8	8	Not permitted
	Maximum #	1	1	1	1	1	1	
	Addl. reqs.	a, d, e, h	a, d, i	a, i	a	h	h	
Entrance Sign	Sign area (sq. ft.)	40	60	60	Not permitted	20	Not permitted	40
	Height (ft.)	6	10	10		5		10
	Maximum #	1	1	1		1		1
	Addl. reqs.	b, c, j	c, f, g, j	c, f, g, j		g		f
Projecting Sign	Sign area (sq. ft.)	12	12	Not permitted	8	Not permitted	Not permitted	Not permitted
	Maximum #	1	1		1			

Notes to Table of Sign Regulations:

- (a) On a corner lot, a second wall sign is permitted. The second sign shall not exceed 60% of the sign area permit for the first sign.
 - (b) Free-standing or entrance signs in this district shall be monument style, not pole-mounted.
 - (c) For multi-tenant buildings or business centers, a monument style entrance sign shall be permitted in place of a free-standing sign.
 - (d) In addition to a monument style entrance sign, for multi-tenant buildings or business centers, each tenant space shall be allowed a separate wall sign not to exceed the greater of 12 square feet in area, or 0.5 square feet for each linear foot of building width.
 - (e) In this district, either one free-standing sign or one wall sign shall be permitted on a premises unless otherwise permitted in this section.
 - (f) Free-standing signs in this district directly fronting on M-113 may be pole-style. All other free-standing signs in this district shall be monument style. Along M-113, maximum ground sign size (either free-standing or monument style) may be up to 60 square feet in sign area and 8 feet in height. (Note that entrance signs in this district may be up to 60 square feet in sign area and up to 10 feet in height.)
 - (g) A secondary entrance sign of the same maximum height and sign area shall be permitted at any development entrance from a village road.
 - (h) All permitted institutional uses including schools, places of worship, parks, government buildings, libraries, post offices and similar uses shall comply with the sign regulations for the C-1 zoning district, regardless of the underlying zoning district.
 - (i) In this district, one free-standing sign in addition to one wall sign shall be permitted on a premises. Where permitted under this section, additional signs for corner lots and multi-tenant buildings may be permitted in this district.
 - (j) Overall sign area. For monument and free-standing style signs, sign area as defined in § 152.005 shall not be less than 50% of the overall sign area also as defined in § 152.005.
- (F) Signs not requiring a permit.

Zoning District	Portable Signs			Minor Signs			
	Sign Area (square feet)	#	Notes	Sign Area (square feet)	#	Height	Notes
C-1	6	2		6	2	6	
Overlay	6	2		Not permitted			
C-2	6	2		6	2	6	
R-1/R-2/ R-3	6	6		Not permitted			
Village Residential	6	4		Not permitted			
MH	4	4		6	2	6	
Industrial	6	2		6	2	6	

- (G) Prohibited signs. The following types of signs are expressly prohibited:
- (1) Any sign which has flashing, moving, or oscillating lights; and

(2) Roof signs.

(H) General requirements. The following applies to all signs in the village.

- (1) No sign shall be placed in, upon, or over a public right-of-way, alley or other public place, except for permitted highway and government signs and projected signs permitted under this chapter. Permitted projected signs shall provide a minimum of 8 feet of clearance from sidewalk grade.
- (2) No light pole, utility pole, or other supporting member shall be used for placement of any sign approved for such.
- (3) No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance.
- (4) No sign shall contain any moving or animated parts, nor have the appearance of having any moving or animated parts.
- (5) No wall sign shall extend above the roofline of a building.
- (6) Free-standing signs shall permit an unobstructed view for motorists and pedestrians.
- (7) Permitted wall signs may be replaced with a canopy sign. Canopy signs shall provide a minimum of 8 feet of clearance from sidewalk grade.
- (8) No commercial vehicle, which at the discretion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
- (9) Maintenance. Signs, supports, braces, guys, and anchors shall be maintained in such a manner as not to cause a hazard.
- (10) Illumination.
 - (a) Unless otherwise provided, signs may be illuminated. The source of light shall be enclosed or shaded and directed to prevent light from shining directly onto traffic or neighboring property.
 - (b) Illumination shall meet requirements as set forth in § 152.222.
 - (c) Internally illuminated sign panels shall be of an opaque and saturated color. Alternatively, only the portions of such internally lit sign panel making up the lettering or logos shall be clear or white in order to limit glare to the extent possible.

(I) Nonconforming signs.

- (1) Every permanent signs which was erected legally and which lawfully exists at the time of the enactment of this section which does not conform to the height, size, area, or location requirements of this section as of the date of the adoption of these regulations, is hereby deemed to be nonconforming.
- (2) Nonconforming signs may not be altered, expanded, enlarged, or extended. However, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
- (3) For the purposes of this section, a nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use, so long as the costs of change does not exceed 50% of the cost of the sign and the change moves the sign toward or into compliance with this section.

- (4) Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than 50% of the value of the sign on the date of loss.
- (5) A sign that for a period of one or more years no longer advertises a bona fide business conducted, or product sold, shall be removed by the owner of the building, structure, or property upon which the sign is located, within 30 days of receipt of written notice by the Zoning Administrator.

§ 152.228 SITE PLAN REVIEW.

- (A) Intent and purpose. The Village of Kingsley finds that all development of land uses requires a site plan and site plan review. Site plans may be divided into two classifications: (1) Basic site plans and (2) Detailed site plans. A land use permit shall not be issued or authorized until a site plan is approved in accordance with the procedures and standards set forth herein and all necessary review, inspection, and permit fees have been paid in full.
 - (1) Basic site plans.
 - (a) Basic site plans are required for uses found in permitted use sections of the residential districts. Other uses, such as multiple family and apartment developments, will require a detailed site plan.
 - (b) For non-residential uses, a basic site plan will be required if there is no physical change in the existing structure or site conditions, merely a change in use. For new non-residential structures, a detailed site plan will be required.
 - (c) Basic site plans are generally considered to require less detail and need not to be drawn to scale, but must include the information required on the land use permit application, along with a legible drawing of the proposed site showing lot dimensions, setbacks, driveway location and other details deemed necessary by the village.
 - (d) Basic site plans may be reviewed and approved/denied by the Village Zoning Administrator without Planning Commission approval; however, if the Zoning Administrator believes additional review may be warranted, the Zoning Administrator may send a basic site plan to the Planning Commission for review and approval.
 - (2) Detailed site plans. Detailed site plans are required for new structures with non-residential uses as well as multiple family uses, planned unit developments (PUD), open space preservation and special land uses.
- (B) Procedures and submittal requirements for site plans.
 - (1) Optional sketch plan review.
 - (a) Procedure for sketch plan review.
 - (i) Preliminary sketches of proposed site and development plans may be submitted for review to the Village Zoning Administrator prior to final submittal of a basic site plan or detailed site plan.
 - (ii) This meeting will be informal and advisory only, and it is intended to better inform the developer of the acceptability and process of

- his/her proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan review.
- (iii) The Village Planning Commission shall not be bound by any tentative approval given at this time.
- (b) Requirements for preliminary sketch plans. Preliminary sketch plans must include:
- (i) The name and address of the owner and applicant (if different than owner);
 - (ii) Property parcel number, street address, and legal description of the subject parcel of land;
 - (iii) Sketch plans showing tentative site and development plans; and
 - (iv) Disclosure of all intended uses on the site.
- (2) Basic site plan review.
- (a) Request for basic site plan review shall be made by filing with the Village Zoning Administrator the following:
- (i) An application fee as determined by resolution of the Village Council, and if requested by the Zoning Administrator, an additional amount to be placed in escrow to cover review costs pursuant to the Village Resolution Establishing Fees for Reimbursable Expenses and § 152.228 (E).
 - (ii) Three copies of the completed application form, filled out in full by the applicant, including, at a minimum, all information required under § 152.228 (B)(2)(b).
- (b) All basic site plan applications shall be reviewed for completeness by the Zoning Administrator and/or village's Planning Consultant.
- (i) If the basic site plan is determined to be incomplete, the Zoning Administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.
 - (ii) If the basic site plan is determined to be complete, the Zoning Administrator shall review and act upon the application within 45 days of receipt of application.
- (c) If the Zoning Administrator believes additional review of a Basic Site Plan application is warranted, the Zoning Administrator shall:
- (i) Notify the applicant in writing of the Zoning Administrator's decision to send the complete application to the Planning Commission, as well as the date, time, and location of the review of his/her basic site plan application;
 - (ii) Forward a copy of the basic site plan(s) to each member of the Planning Commission at least 1 week prior to the Planning Commission's meeting when the basic site plan is on the agenda;
 - (iii) The applicant or a designate representative must be present at all scheduled review meetings or consideration of the site plan shall be tabled due to lack of representation. Absence at 2 consecutive meetings without prior notice to the Zoning Administrator may result

in denial of the application. The Zoning Administrator may recommend to the Planning Commission Chairperson that the applicant's architect, engineer, or landscape architect be required to be present at the meeting in order to address technical matters related to the application.

- (d) Application requirements for a basic site plan. A basic site plan shall contain at a minimum the following information:
 - (i) Applicant's name, address, telephone number, and signature;
 - (ii) Property owner's name, address, telephone number, and signature;
 - (iii) Parcel identification number of subject parcel;
 - (iv) Street address of the subject parcel of land;
 - (v) Present zoning classification of subject parcel;
 - (vi) Present and proposed land use(s) for subject parcel;
 - (vii) Properly lines, setbacks, and parcel size;
 - (viii) Location of public and private rights-of-way and easements within and contiguous to the proposed development, which will be continued, created, relocated, abandoned, including grades and type of construction of those upon the site;
 - (ix) Itemization of existing manmade and natural features including buildings, trees, water bodies, wetlands and the like.
 - (x) The location, height, distance between, and square footage of existing and proposed main and accessory buildings, and other existing structures;
 - (xi) Proposed and existing roads (public and private), access easements, sidewalks, bicycle paths, and other vehicular and pedestrian circulation features within and adjacent to the site;
 - (xii) Location and dimensions of driveways;
 - (xiii) Any additional material and/or information necessary to evaluate the impact of the project upon adjacent properties and the general public, as may be requested by the Zoning Administrator or Planning Commission;
 - (xiv) All necessary approvals from agencies such as soil erosion, health department, fire department, department of public works (DPW), Michigan Department of Transportation (MDOT) and the like;
 - (xv) North arrow and date of original submittal and last revision; and
 - (xvi) Name, address, and phone number of the prepare of the plans.

(3) Detailed site plan review.

- (a) Request for detailed site plan review shall be made by filing with the Village Zoning Administrator the following:
 - (i) A application fee as determined by resolution of the Village Council, and, if requested by the Zoning Administrator, an additional amount to be placed in escrow to cover review costs pursuant to the Village Resolution Establishing Fees for Reimbursable Expenses and § 152.228(E).

- (ii) Eleven copies of the completed application form, filled out in full by the applicant, including, at a minimum, all information required under § 152.228(B)(3)(b).
- (b) All detailed site plan applications shall be reviewed for completeness by the Zoning Administrator and/or Village's Planning Consultant.
 - (i) If the detailed site plan is determined to be incomplete, the Zoning Administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.
 - (ii) If the detailed site plan is determined to be complete, the Zoning Administrator shall:
 - (a) Determine whether any outside reviewer including Village Engineer, Planning Consultant, Attorney, or others will be asked to review the plan and provide written comments for the approving body's consideration;
 - (b) Determine if the detailed site plan is to be reviewed and acted upon by the Planning Commission, and, if so, forward a copy of the detailed site plan(s) to each member of the Planning Commission at least 1 week prior to the Planning Commission's meeting when the detailed site plan is on its agenda;
 - (c) Determine if the detailed site plan is to be reviewed and acted upon by the Zoning Board of Appeals, and, if so, forward a copy of the detailed site plan(s) to each member of the Zoning Board of Appeals at least 1 week prior to the Planning Commission's meeting when the detailed site plan is on its agenda;
 - (d) Record the date of the next scheduled meeting of the approving body (Planning Commission or Zoning Board of Appeals);
 - (e) Schedule the review of the detailed site plan within 45 days of the date of receipt of the plans and application by the Village Zoning Administrator;
 - (f) Notify the applicant in writing of the completeness of application, as well as the date, time, and place of the review of his/her detailed site plan application;
- (c) Applications shall be submitted by the owner of an interest in the land for which the detailed site plan approval is sought or the designated agent of said owner. The applicant or a designate representative must be present at all scheduled review meetings or consideration of the site plan shall be tabled due to lack of representation. Absence at 2 consecutive meetings without prior notice to the Zoning Administrator may result in denial of the application. The Zoning Administrator may recommend to the Planning Commission Chairperson that the applicant's architect, engineer, or

landscape architect be required to be present at the meeting in order to address technical matters related to the application.

(d) Application requirements for a detailed site plan. A detailed site plan shall contain at a minimum the following information:

- (i) Applicant's name, address, telephone number, and signature;
- (ii) Property owner's name, address, telephone number, and signature;
- (iii) Parcel identification number of subject parcel;
- (iv) Street address of the subject parcel of land;
- (v) Legal description of the subject parcel of land;
- (vi) Present zoning classification of subject parcel and adjacent parcels and, when applicable, parcels across rights-of-way;
- (vii) Present and proposed land use(s) for subject parcel;
- (viii) A vicinity map showing the subject parcel in relation to the surrounding area with sufficient detail;
- (ix) Applicant's statement demonstrating compatibility with surrounding uses;
- (x) Statements regarding the project impacts on existing infrastructure (including traffic circulation patterns and local traffic volumes, schools, and existing utilities), emergency service requirements, and on the natural environment on and adjacent to the site;
- (xi) A scaled drawing of the site (minimum 1" - 50'), including property lines, setbacks, and area of the subject parcel of land stated in acres or, if less than 1 acre, in square feet;
- (xii) Location of public and private rights-of-way and easements within and contiguous to the proposed development, which will be continued, created, relocated, abandoned, including grades and type of construction of those upon the site;
- (xiii) Topography of the existing site and its relationship to adjoining properties shown at a 1-foot contour interval;
- (xiv) Itemization of existing manmade and natural features including buildings, trees, water bodies, wetlands and the like.
- (xv) The location, height, distance between, and square footage of existing and proposed main and accessory buildings, and other existing structures;
- (xvi) Building elevations and detailed floor plans;
- (xvii) Percentage of land covered by buildings and impervious surfaces and that which is reserved for open space;
- (xviii) Dwelling unit density (where applicable), including number of units and composition;
- (xix) Proposed and existing roads (public and private), access easements, sidewalks, bicycle paths, and other vehicular and pedestrian circulation features within and adjacent to the site;
- (xx) Location and dimensions of curb cuts, acceleration/deceleration and passing lanes (when required);

- (xxi) Parking plan (when required), including the number of required spaces, actual spaces to be provided, number and location of ADA accessible parking spaces, loading/unloading service areas;
- (xxii) Location of water supply lines, and the location and design of storm sewers, retention or detention ponds, waste water/sanitary sewer lines, clean out locations, connection points and treatment systems;
- (xxiii) Proposed earth changes shown at a 1-foot contour interval;
- (xxiv) Sidewalks; fence location, materials, and elevations; dumpster location and materials and elevations of dumpster screening and landscaping;
- (xxv) Location, size, and specifications of all signs and advertising features, including cross sections;
- (xxvi) Locations of exterior lighting with the area of illumination illustrated as well as the type of fixture and shielding to be use;
- (xxvii) Snow storage or snow management plan;
- (xxviii) Location of fire hydrants and emergency vehicle access plan;
- (xxix) Any additional material and/or information necessary to evaluate the impact of the project upon adjacent properties and the general public, as may be requested by the Zoning Administrator or Planning Commission;
- (xxx) All necessary approvals from agencies such as soil erosion, health department, fire department, department of public works (DPW), Michigan Department of Transportation (MDOT) and the like.
- (xxxi) North arrow and date of original submittal and last revision;
- (xxxii) Name, address, and phone number of the prepare of the plans;
- (xxxiii) Seal or certification of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan;

(C) Criteria for review of site plans. All applications for basic site plan and detailed site plan approval shall be reviewed for compliance with the standards and requirements of this section. Only when satisfied that the application meets all such standards and requirements shall the Zoning Administrator or Planning Commission, as applicable, approve said application. The Zoning Administrator or Planning Commission, as applicable, will review site plans for the following:

- (1) Adequacy of information. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed use(s) and structure(s).
- (2) Vehicular and pedestrian circulation layout. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. The width of streets and drives shall be appropriate for the volume of traffic they will carry. There is also a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service, drive, entrance and exit driveways, and

parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and proposed streets and access plan conforms to any street or access plan adopted by the village or the County Road Commission.

- (3) Buildings. Buildings and structures will meet or exceed setback standards, height, and other dimensional standards, and be located to preserve environmentally sensitive areas. Redevelopment of existing structures shall meet or exceed all standards for which a variance has not been obtained. Also, the buildings, structures, and entryways thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects there from upon owners and occupants of adjacent properties and the discharge of storm waters.
- (4) Preservation of natural areas. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, alteration to the natural drainage courses, and the amount of cutting, filling and grading. Insofar as practical, natural features and the site topography shall be incorporated into the proposed site design. As many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters. Impervious surfaces have been limited on the site to the greatest extent practical.
- (5) Privacy. The site design shall provide reasonable visual and sound privacy for dwelling units located therein and adjacent thereto. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants. Any adverse effects of the proposed development and activities emanating there from upon adjoining residents or owners shall be minimized by appropriate screening, fencing, and/or landscaping.
- (6) Other approvals. All provisions of this section are complied with unless an appropriate variance there from has been granted by the Village Zoning Board of Appeals.
- (7) Site design characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this section. The site shall be designed to conform to all provisions of this section. Redevelopment of existing sites shall be brought into conformance with all site improvement provisions of this section which are relative to and proportionate to the extent of redevelopment, as determine by the Planning Commission.
- (8) Emergency vehicle access. All buildings and structures shall be arranged so as to permit emergency vehicle access by some practicable means to all vehicles.
- (9) Drainage and soil erosion. Stormwater management system and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible and shall not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or water course, or

cause alterations which could increase flooding or water pollution on or off the site. The proposed development shall include measures to prevent soil erosion and sedimentation.

- (10) Exterior lighting. Exterior lighting shall be designed so that it is deflected away from adjacent properties and so that it does not impede the vision of drivers on public streets. Any exterior lighting must be consistent with § 152.222 (Night Sky).
 - (11) Public services. The scale and design of the proposed development shall facilitate the adequate provision of services currently furnished by or that may be required of the village or other public agency including, but not limited to, fire and police protection, stormwater management, sanitary sewage removal and treatment, traffic control and administrative services.
 - (12) Hazardous materials. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, and nearby surface water bodies. Such sites shall be designed to meet all applicable state and federal regulations.
 - (13) Traffic impact. The expected volume of traffic to be generated by the proposed use shall not adversely impact existing roads and the circulation thereon.
- (D) Action on application and site plans.
- (1) Basic site plans.
 - (a) The Zoning Administrator shall review the application for basic site plan review, and the Zoning Administrator shall then make a determination based solely on the requirements and standards of this section. The Zoning Administrator is authorized to grant approval, approval subject to revisions, or denial as follows:
 - (i) Approval. Upon determination that a basic site plan is in compliance with the standards and requirements of this section and other applicable ordinances and laws, approval shall be granted subject to the applicant providing copies of all required outside agency approvals.
 - (ii) Approval subject to revisions. Upon determination that basic site plan is in compliance except for minor revisions, said revisions shall be identified and the applicant shall be given the opportunity to correct the site plan prior to applying for a building permit. The applicant shall resubmit the basis site plan, accompanied by a complete list of all changes, certified by the applicant's design professional (if applicable), to the Zoning Administrator for final approval after said revisions have been completed. The Zoning Administrator shall approve the resubmitted plan if all required revisions have been addressed and copies of any permits required by outside agencies have been provided. The applicant shall have no more than 90 days to re-submit Basic Site Plans containing all required revisions to the Zoning Administrator. If all required

revisions are not submitted within 90 days, the Zoning Administrators approval subject to revisions shall become null-and-void.

(iii) Denial of approval. Upon determination that a basic site plan does not comply with standards and regulations set forth in this section or requires extensive revision in order to comply with said standards and regulations, the Zoning Administrator shall deny site plan approval. The applicant must revise the basic site plan and resubmit if the applicant is still interested in pursuing the project. A re-submittal shall be considered a new site plan and be required to re-initiate the entire basic site plan review process.

(b) A land use permit shall not be issued or authorized until a basic site plan is approved in accordance with the procedures and standards set forth herein and all necessary review, inspection, and permit fees have been paid in full.

(c) An approved site plan shall be valid for a period of 1 year from the date of approval. If construction or the permitted use has not commenced and proceeded meaningfully toward completion by the end of this 1 year, the site plan approval shall expire. The Village Zoning Administrator may, at its discretion, extend an approved basic site plan for 1 additional year if requested to do so in writing by the applicant and if there is good reason to believe that the applicant will in fact commence construction of the permitted use and proceed meaningfully toward completion by the end of the second year.

(2) Detailed site plans.

(a) The Planning Commission shall review the application for detailed site plan review, together with the reports and recommendations from the Zoning Administrator, Village Planner, Village Attorney, Village Engineer, Department of Public Works, Fire Chief, Police Chief, and other reviewing agencies, as appropriate. The Planning Commission shall then make a determination based solely on the requirements and standards of this section. The Planning Commission is authorized to table, grant approval, approval subject to revisions, or denial as follows:

(i) Table. The application may be tabled if it is determined to be incomplete, the applicant has not fully responded to deficiencies identified during the preliminary review, an ordinance interpretation or variance is needed from the Zoning Board of Appeals, or revisions are necessary to bring the detailed site plan into compliance with applicable standards and regulations. The Planning Commission shall direct the applicant to prepare additional information, revise the detailed site plan, or direct the village staff to conduct additional analysis. The applicant shall be required to prepare revised detailed site plans accompanied by a complete list of all changes, certified by the applicant's design professional. Amended plans or other

material which show a diligent effort to address all reasons for tabling, as determined by the Chairman of the Planning Commission or designee, shall be placed on the agenda of the Planning Commission for further review and action.

- (ii) Approval. Upon determination that a detailed site plan is in compliance with the standards and requirements of this section and other applicable ordinances and laws, approval shall be granted subject to the applicant providing copies of all required outside agency approvals.
 - (iii) Approval subject to revisions. Upon determination that a detailed site plan is in compliance except for minor revisions, said revisions shall be identified and the applicant shall be given the opportunity to correct the detailed site plan prior to applying for a building permit. The applicant shall re-submit the detailed site plan, accompanied by a complete list of all changes, certified by the applicant's design professional, to the Planning Commission for final approval after said revisions have been completed. At its discretion, the Planning Commission may waive its right to review the revised detailed site plan and instead authorize the Zoning Administrator to review and approve the re-submitted detailed site plan if all required revisions have been addressed and copies of any permits required by outside agencies have been provided. The Planning Commission may set a maximum time frame, not to exceed 90 days, for detailed site plans containing all required revisions to be resubmitted to the Zoning Administrator. If all required revisions are not submitted within the maximum time frame set, Planning Commission approval shall become null-and-void.
 - (iv) Denial of approval. Upon determination that a detailed site plan does not comply with standards and regulations set forth in this section, requires extensive revision in order to comply with said standards and regulations, or the applicant has not satisfactorily addressed all reasons for site plan tabling, site plan approval shall be denied. The applicant must revise the detailed site plans and resubmit if the applicant is still interested in pursuing the project. A re-submittal shall be considered a new detailed site plan and be required to re-initiate the full detailed site plan review process.
- (b) A land use permit shall not be issued or authorized until a detailed site plan is approved in accordance with the procedures and standards set forth herein and all necessary review, inspection, and permit fees have been paid in full.
 - (c) An approved site plan shall be valid for a period of 1 year from the date of approval. If construction or the permitted use has not commenced and proceeded meaningfully toward completion by the end of this 1 year, the site plan approval shall expire. The Planning Commission may, at its

discretion, extend an approved detailed site plan for 1 additional year if requested to do so in writing by the applicant and if there is good reason to believe that the applicant will in fact commence construction of the permitted use and proceed meaningfully toward completion by the end of the second year.

(3) Amendment of site plan.

(a) A proposed amendment, modification, or alteration to a previously approved basic site plan or detailed site plan shall be submitted to the Village Zoning Administrator for review in the same manner as the original application was submitted and reviewed except:

- (i) Non-material deviation from the site plans issued by the Village Council or the Planning Commission are permissible and the Zoning Administrator may authorize such non-material deviations. A deviation is non-material if it will result in no discernable changes or impact on or to the neighboring properties, the general public, or those intended to occupy or use the proposed improvements to the property.
- (ii) Minor design modification to changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Village Council or Board of Appeals, new conditions may be imposed in accordance with § 152.228(B) but the applicant retains the right to reject such additional conditions by withdrawing his/her request for an amendment and may then proceed in accordance with the previously issued permit.

(c) The Zoning Administrator and/or Village Planner shall determine whether amendments to and modifications of permits fall within categories set forth in divisions (B)(3)(a) and (B)(3)(b).

(d) A developer requesting approval of changes shall submit a written request for such approval to the Zoning Administrator and that request shall identify all the changes. Approval of all changes must be given in writing.

(E) Security requirement. The village may defray costs of certain site plan reviews, if such review requires the expertise of professional services. If the Planning Commission or Zoning Board of Appeals determines that the review of an application requires the examination of a qualified professional such as a professional planner, engineer, attorney, or other such professional, then the applicant shall deposit with the Village Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of

Appeals 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 the additional costs of review. If the amount in escrow becomes less than 10% of the initial escrow deposit or less than 10% of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals 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 section 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 unexpected 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.

§ 152.229 SPECIAL USE PERMITS.

- (A) Intent and purpose. It is the intent and purpose of this chapter to provide a set of procedures and standards for special uses of land or structures that will maintain sound provisions for the protection of the health, safety, convenience, and general welfare of the inhabitants of the Village of Kingsley.
- (B) Review and approval.
 - (1) The special land uses and activities eligible in a respective zoning district in the Village of Kingsley may be permitted only after review and approval by the Village Planning Commission.
 - (2) The special uses shall also be subject to site plan review and approval as provided for in § 152.228.
- (C) Permit procedure. Request for special use permit shall be made by filing with the Village Zoning Administrator the following:
 - (1) A permit fee as determined by resolution of the Village Council based upon the cost of processing the permit and as shall be on file with the Village Clerk; and
 - (2) A copy of the completed application form for special use permit which shall contain at a minimum the following information:
 - (a) Name and address of applicant;
 - (b) Legal description, property parcel number, and street address of the subject parcel of land;
 - (c) Area of the subject parcel of land stated in acres or, if less than 1 acre, in square feet;
 - (d) Present zoning classification of parcel;
 - (e) Present and proposed land use;
 - (f) Applicant's statement of expected effect on emergency service requirements, schools, storm water systems, and automobile and truck circulation patterns and local traffic volume; and

- (g) Any additional material or information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Village Zoning Administrator or Planning Commission.
 - (h) All information from site plan review, if requested by the Village Zoning Administrator or Village Planning Commission.
- (D) Standards for decision. In evaluating a proposed special use permit, the Village Planning Commission shall consider the following factors upon which to base their decision and/or approval:
 - (1) The similarity and compatibility of the proposed special use with permitted uses in the respective zoning district;
 - (2) Whether or not the proposed use would create a traffic hazard to a greater degree than the permitted uses in that district;
 - (3) Whether or not the proposed use would create obnoxious or harmful noise or odors;
 - (4) Location in relation to roads and adjacent residential areas;
 - (5) Preservation of elements of the natural environment such as trees, natural land forms, shore areas, and drainage patterns;
 - (6) Safety factors, such as access for fire and police; and
 - (7) Relationship to shore and stream preservation principles where appropriate.
- (E) Decision of Village Planning Commission.
 - (1) Public hearing.
 - (a) Prior to action, the Village Planning Commission shall hold a public hearing pursuant to § 152.274.
 - (b) After a public hearing pursuant to § 152.274, the Village Planning Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed. If approved, the Planning Commission shall direct the Zoning Administrator to issue a special use permit therefore.
 - (2) Conditions.
 - (a) Reasonable conditions may be required in conjunction with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility 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. Conditions imposed shall do all the following:
 - (i) Be designed to protect natural resources, the health, safety, and welfare, as well as 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.

(ii) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(iii) Be necessary to meet the intent and purpose of the zoning regulations; 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.

(b) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

(F) Permit expiration.

(1) A special use permit issued pursuant to the requirements of this chapter shall be valid for a period of 1 year from the date of the issuance of the permit.

(2) If construction or use has not commenced and proceeded meaningfully toward completion by the end of this period, the special use permit shall be null and void.

(G) Amendments to and modifications of special use permits.

(1) Non-material deviation from the special use permits issued by the Village Planning Commission are permissible and the Zoning Administrator may, after consultation with the Village Planner and Planning Commission, authorize such non-material deviations. A deviation is non-material if it will result in no discernable changes or impact on or to the neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property.

(2) Minor design modification to changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(3) All other requests for changes in approved permits will be processed as new applications. If such requests are required to be acted upon by the Village Planning Commission or Board of Appeals, new conditions may be imposed in accordance with § 152.229(C)(2)(g) but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(4) The Zoning Administrator and Village Planner shall determine whether amendments to and modifications of permits fall within categories set forth in divisions (G)(1), (2) and (3).

(5) A developer requesting approval of changes shall submit a written request for such approval to the Administrator and that request shall identify the changes. Approval of all changes must be given in writing.

- (6) Although a special use permit may be amended or modified under this section, any conditions imposed with respect to the approval of a land use or activity shall remain unchanged except upon the mutual consent of the approving authority and the landowner.

§ 152.230 SUPPLEMENTAL LOT AND YARD PROVISIONS.

- (A) Lot frontage. Every lot upon which a dwelling is hereafter erected shall have frontage on a public street.
- (B) Limitation on use of yards or open space.
 - (1) The erection of cabins for rent or tents (except children's play tents) shall not be permitted or considered a legal accessory on a dwelling lot.
 - (2) Storage.
 - (a) No yard or open space encompassing a dwelling shall hereafter be used for open-air parking, disposition, storage, wrecking, dismantling, accumulation, or abandonment, either temporary or otherwise, discarded, worn-out, wrecked, or dismantled vehicles, machinery, implements, apparatuses, furniture, appliances, junk, or other personal property.
 - (b) Without limiting the meaning of junk, the term shall include used for salvaged metals and their combination, or used or salvaged lumber, ropes, bags, paper, rags, glass, rubber, and similar articles and materials.
 - (3) No premises shall be so filled or graded as to discharge surface run-off on abutting premises in the manner as to cause pounding or surface accumulation of the run-off thereon.
- (C) Corner lots.
 - (1) A corner lot is a lot which occupies the interior angle at the intersection of 2 street lines, which makes an angle of less than 145 degrees.
 - (2) Setbacks required on the corner lots will be the front setback 25 feet on both streets. Exception: on previously plotted lots that measure 60 feet or less on 1 street side, the setbacks will be as follows: front setback of 25 feet from the street on the short side and 20 feet from the street on the long side.

§ 152.231 WATERFRONT LOTS.

- (A) Generally. The use of land or structures on any lot fronting on or abutting a lake, reservoir, pond, swamp, stream, river, or other natural watercourse shall comply with the regulations stated below, as well as all other regulations in this chapter, pertaining to the district in which the property is located.
- (B) Specifically.
 - (1) Setback from water.
 - (a) No building or structure, temporary or permanent, shall be placed or erected 50 feet from the water line or 25 feet from the high water mark of any water body.
 - (b) Along rivers and streams, no docks may be constructed.
 - (2) Natural vegetative strip.

- (a) A vegetative strip composed of native vegetation shall be maintained along the shore of all water bodies.
 - (b) The vegetative strip shall be a minimum of 25 feet in depth.
 - (c) No ponds shall be constructed, nor earth moved, surface soils removed, or filling shall occur within the natural vegetative strip.
- (3) Easement to water front. In the event any land having water frontage is used to group easement or public access (i.e. boardwalk), the access shall follow the waterline (ordinary high water mark).

§ 152.232 MARIHUANA BUSINESSES.

(A) Regulations in the C-2 Commercial District.

- (1) Marihuana Safety Compliance Facilities. As authorized by Ordinance 17-02 of the Village of Kingsley, marihuana safety compliance facilities must comply with the following:
 - (a) Provide to the village a waste disposal plan that must be included with all applications for a safety compliance facility's operations detailing plans for chemical disposal and plans for all waste disposal;
 - (b) The permitted premises must obtain all applicable local and state approval for discharge of the safety compliance facility's by- products into the village's sewer system;
 - (c) Odors from the operations of a marihuana facility must be contained through use of operable filtration to ventilation and exhaust equipment. Odors must otherwise be effectively confined to the interior of the permitted premises from which the odor is generated to prevent fugitive nuisance odors from escaping the facility;
 - (d) The permitted premises must not be located within 100 feet of any existing residential district, such distance limitations must be measured in a straight line from the permitted premises to the respective existing residential districts boundary line;
 - (e) In the event of any explosion, release, or hazard that results from the operations of the safety compliance facility, the responsible party will be responsible for reimbursement of any emergency response costs which were deployed to remediate, contain or respond to the explosion, fire, release or hazard, including transportation, overtime costs, special equipment or testing, and must be responsible for the repair of property damages, remediation, or medical expenses for injuries resulting from such explosion, release, harmful emission, or hazard; and
- (2) Marihuana Secure Transporters. As authorized by Ordinance 17-02 of the Village of Kingsley, marihuana secure transporter facilities must comply with the following:
 - (a) The permitted premises must not be located within 100 feet of any existing residential district, such distance limitations must be measured in a straight line from the permitted premises to the respective existing residential districts boundary line;

- (b) In the event of any explosion, release, or hazard that results from the operations of the secured transporter, the responsible party will be responsible for reimbursement of any emergency response costs which were deployed to remediate, contain or respond to the explosion, fire, release or hazard, including transportation, overtime costs, special equipment or testing, and must be responsible for the repair of property damages, remediation, or medical expenses for injuries resulting from such explosion, release, harmful emission, or hazard; and

(B) Industrial District Regulations.

- (1) All Marihuana Businesses. In addition to the use and dimensional requirements in §152.157 and §152.158, and the site plan review requirements in §152.159, a marihuana grower, marihuana processor, marihuana secure transporter, and marihuana safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to § 152.229, provided that:

- (a) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the village. In the event that a court with jurisdiction declares some or all of this section invalid, then the village may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
- (b) At the time of application for a special use permit the marihuana facility must be licensed by the State of Michigan and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, being M.C.L.A. §§ 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, being M.C.L.A. §§ 333.27101 et seq.; and the Marihuana Tracking Act, being M.C.L.A. §§ 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.
- (c) At the time of application for a special use permit the marihuana facility must be licensed by village, (or have the village operating license concurrently in process along with the special use permit and site plan approval), and then must be at all times in compliance with Chapter 154.
- (d) The use or facility must be at all times in compliance with all other applicable laws and ordinances of the village.
- (e) The village may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, Chapter 154 , or the terms of the special use permit and approved site plan are not met.
- (f) A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this section.

- (g) Signage requirements for marihuana facilities, unless otherwise specified, are as provided in § 152.227, Sign Regulations.
- (2) Marihuana Growers and Marihuana Processors. In addition to the requirements of §152.232(B)(1) above, marihuana grower and marihuana processor facilities must comply with the following:
 - (a) The permitted premises must not be located within 500 feet of any residential district, such distance limitations must be measured in a straight line from the permitted premises to the respective existing residential districts boundary line. Nor shall the permitted premises be located within 500 feet of M-l 13, such distance limitations must be measured in a straight line from the permitted premises to the respective right-of-way boundary line;
 - (b) Prohibit smoking or consumption of marihuana on the permitted property;
 - (c) Implement a drug and alcohol testing program for employees, pursuant to Regulation Number 2.07 (SPDOC No. 10-05), as amended and with definitions outlined in Article 53-385154-7, as amended;
 - (d) The marihuana facility must not sell or otherwise distribute marihuana or marihuana-infused products directly to the public;
 - (e) The permitted property and permitted premises owner must maintain general liability and property insurance as required by M.C.L.A. § 333.27206(b);
 - (f) All necessary county and state building, electrical, plumbing and mechanical permits must be obtained before operations commence at the permitted property and/or permitted premises;
 - (g) The permitted property and/or permitted premises is subject to scheduled inspections and approval by the local fire authority, law enforcement, Village Zoning Administrator, the local building official or state agency to insure compliance with all applicable state and local, ordinances, laws, rules and regulations, as part of any necessary inspection;
 - (h) The permitted premises must receive OSHA/MIOSHA certifications regarding safety of environment for the permitted premises;
 - (i) No minors must be allowed on the permitted property without a parent or guardian;
 - (j) The permitted premises must obtain all applicable local and state approval for discharge of growing by-products into the village's sewer system;
 - (k) Provide the village with a waste disposal plan which must be included with all applications for a grow operation detailing plans for chemical disposal and plans for plant waste disposal;
 - (l) Discharge of any toxic, flammable or hazardous materials in a regulated quantity under state, federal or local law into the village sewer system is prohibited;
 - (m) Any exterior lighting methods utilized between the hours of 9:00 p.m. to 7:00 a.m. must employ shielding methods to prevent ambient light

spillage onto adjacent property. In no event must the village's lighting or night sky (§ 152.222) ordinances be violated, nor at any time must any ambient light spill onto residential zoned districts;

- (n) Odors from the operations of a marihuana facility must be contained through use of operable filtration to ventilation and exhaust equipment. Odors must otherwise be effectively confined to the interior of the permitted premises from which the odor is generated to prevent fugitive nuisance odors from escaping the facility;
- (o) The marihuana facility must not directly or indirectly advertise, or promote its services as a marihuana facility on the permitted property, other than a sign identifying the business name;
- (p) In the event of any explosion, release, or hazard that results from the growth, cultivation or processing of marihuana plants, the responsible party will be responsible for reimbursement of any emergency response costs which were deployed to remediate, contain or respond to the explosion, fire, release or hazard, including transportation, overtime costs, special equipment or testing, and must be responsible for the repair of property damages, remediation, or medical expenses for injuries resulting from such explosion, release, harmful emission, or hazard;
- (q) Outdoor storage is strictly prohibited;
- (r) A security plan and floor plan must be submitted with any application for a permitted property and/or permitted premises. The security plan and floor plan must be treated as a confidential document by the village and its agents, exempt from disclosure to the extent permitted under the laws of this state or the Freedom of Information Act.

(C) Marihuana Safety Compliance Facilities. In addition to the requirements of §152.232(B)(1) above, a marihuana safety compliance facility must comply with the following:

- (1) All of the following § 152.232(B)(2) provisions: (b), (c), (d), (e), (f), (g), (h), (i), (m), (n), (o), (p), and (r);
- (2) All activities of a marihuana safety compliance facility, including all transfers of marihuana, shall be conducted within the structure and out of public view;
- (3) The permitted premises must not be located within 100 feet of any existing residential district, such distance limitations must be measured in a straight line from the permitted premises to the existing respective residential districts boundary line;
- (4) In the event of any explosion, release, or hazard that results from the operations of the safety compliance facility, the responsible party will be responsible for reimbursement of any emergency response costs which were deployed to remediate, contain or respond to the explosion, fire, release or hazard, including transportation, overtime costs, special equipment or testing, and must be responsible for the repair of property damages, remediation, or medical expenses for injuries resulting from such explosion, release, harmful emission, or hazard.

(D) Marihuana Secure Transporters. In addition to the requirements of §152.232(B)(1) above, a marihuana secure transporter facility must comply with the following:

- (1) All of the following § 152.232(B)(2) provisions: (b), (c), (d), (e), (f), (g), (h), (j), (m), (n), and (o);
- (2) The permitted premises (used for the containment of stored materials) must not be located within 100 feet of any existing residential district, such distance limitations must be measured in a straight line from the permitted premises to the respective existing residential districts boundary line;
- (3) In the event of any explosion, release, or hazard that results from the operations of the secured transporter, the responsible party will be responsible for reimbursement of any emergency response costs which were deployed to remediate, contain or respond to the explosion, fire, release or hazard, including transportation, overtime costs, special equipment or testing, and must be responsible for the repair of property damages, remediation, or medical expenses for injuries resulting from such explosion, release, harmful emission, or hazard.

§152.233 LANDSCAPING.

(A) General Landscaping Requirements.

(1) Applicability.

- (a) The landscaping standards of this Article shall apply to all new development and redevelopment, unless otherwise exempted in this Ordinance.
- (b) Exemptions.
 - (i) Individual single-family or two-family residential uses that are not part of a new subdivision.
 - (ii) Minor site improvement projects such as resurfacing and restriping.
 - (iii) Expansions or Enlargements. An addition to a building or expansion of a use on an existing site shall not be required to come into compliance with this article unless one (1) of the following conditions is met:
 - (a) The gross floor area of an existing structure is expanded by 25 percent (25%) or more; or
 - (b) There is a change of use of the existing building that requires an increase of off-street parking by 25 percent (25%) or more; or
 - (c) The expansion or enlargement requires Special Land Use approval from the Planning Commission.

(2) Percentage of Lot to be Landscaped. The minimum percentage of site area to be landscaped is as follows:

- (a) C-2 and Industrial Zone Districts: 15 percent (15%)

(3) Plantings. Trees, plants, shrubs, flowers, and other landscaping features should be identified as native by a local or state institution, such as the Michigan State

University Extension. It is recommended that turfgrass be a low-maintenance cultivar, such as tall fescue.

(a) Minimum installation standards. Selected plants shall meet the following minimum standards:

- (i) A minimum of 75 percent (75%) of plant species on a development site shall be native species;
- (ii) All required trees shall be a minimum of eight (8) feet high at planting; and
- (iii) All required shrubs shall be a minimum of two (2) feet high at planting.

(4) Grades, Elevation Differentials and Retaining Walls. The grading of all building lots shall divert water away from buildings and prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property. However, water should not be diverted to adjacent properties.

(5) Maintenance.

- (a) Plant materials and landscape areas, including lawns, shall be maintained substantially weed- and debris-free, neat and orderly in appearance, and in healthy growing condition in accordance with the approved site plan.
- (b) Plants shall be controlled by reasonable pruning, trimming, or other suitable and acceptable methods so that they do not interfere with public utilities, restrict pedestrian or vehicular access, or constitute a traffic hazard.
- (c) Unhealthy, withered, severely pruned, diseased or dead plants shall be replaced within 1 year or the next appropriate planting period, whichever comes first.

(B) Parking Lot and Loading Area Landscaping.

(1) Purpose. This section sets minimum design standards and requirements for parking lots and loading areas, including the visual and physical separation of parking lots and structures from sidewalks, streets, and other land uses.

(2) Applicability. The requirements of this section are applicable in the following cases:

- (a) New parking lots.
- (b) Parking lots that are expanded or reconstructed (existing pavement removed and replaced) with 25% or more of the existing parking area impacted.

(3) Interior Landscape Standards.

- (a) Applicability and number. Any parking lot designed for a capacity of 15 vehicles or more shall provide interior landscaping.
- (b) Materials.
 - (i) Canopy trees, plants, shrubs, flowers, or rain gardens shall be provided.

- (ii) If canopy trees are provided, 1 canopy tree is required for every 15 parking spaces.
 - (c) Location. Parking lot landscaping shall be in internal islands or medians between parking rows, along the ends of parking rows, or at the corners of parking areas.
 - (d) Size.
 - (i) Interior landscape areas shall have a minimum width of 8 feet and a minimum area of 180 square feet.
 - (ii) If a pedestrian pathway is included as a component of a landscape island, the island shall be at least 11 feet wide. The pathway shall be 5 feet wide, with 3 feet wide landscape areas on either side.
- (4) Parking Lot Screening.
 - (a) Any side of a parking lot or loading area that abuts a public right-of-way or public walkway shall be screened by a 5 foot wide landscape buffer, 3 foot high masonry wall, or 4 foot high decorative fence.
 - (i) The landscape buffer should be comprised of groundcover, ornamental grasses, annual or perennial flowers, shrubs, trees or a combination thereof.
 - (ii) Where a wall or fence is used, a 3 foot landscape strip comprised of the methods described above may be used to soften the appearance of the wall or fence.
 - (b) Waivers. Screening requirements of this section may be waived by the Planning Commission in whole or in part for any side of a parking lot where screening would serve no beneficial purpose or alternate screening methods are needed for the purposes of security.
- (C) Residential Buffers.
 - (1) Buffer Required. Non-residential uses (commercial, institutional, industrial, etc.) abutting a residential use or zone district shall provide a buffer to reduce noise, headlight glare, or other disturbances that may impair quality of life.
 - (2) Buffer Standards. The buffer shall consist of a six (6) foot privacy fence, a three (3) foot high landscaped berm, or a 4-season screen consisting of evergreen and deciduous trees. The Planning Commission, in its Site Plan Review, shall determine the appropriate buffering method.
 - (3) Administrative Departure. When an alley separates the residential use from a non-residential use, the Zoning Administrator may waive the buffer requirement provided that the residential use will be undisturbed.
- (D) Street Trees.
 - (1) Applicability. The street tree policy applies to the C-1 Commercial District.
 - (2) Number and Spacing.
 - (a) One street tree shall be planted adjacent to the road right-of-way for each 24 linear feet of frontage.
 - (b) Clustering of trees is permitted when utility conflicts or required clear vision areas prevent compliance with minimum spacing requirements.

- (3) Root Barrier. Root barriers shall be installed within areas where there is less than seven feet between the back of curb and the sidewalk to prevent root penetration and destruction of curbs and sidewalks.
- (4) Maintenance. The property owner shall be required to maintain street trees for 1 year after the trees are planted, and replace any tree which fails to survive or does not exhibit normal growth characteristics of health and vigor as determined by the Zoning Administrator.
- (5) Waivers.
 - (a) The Planning Commission or Zoning Administrator shall have the authority to reduce or eliminate street tree planting requirements where at least one of the following conditions apply:
 - (i) The landscaped area is too narrow or is otherwise not conducive to the planting of trees or other streetscape improvements.
 - (ii) The right-of-way is under the control of the Michigan Department of Transportation and it does not desire street trees or other streetscape improvements at that location.
 - (iii) No site improvements are being made or are limited in scope or a sufficient distance from the right-of-way.

ARTICLE 15. WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

§ 152.245 PURPOSE.

- (A) The purpose of §§ 152.245 et seq. is to establish general guidelines for the siting of wireless communications towers and antennas.
- (B) The goals of §§ 152.245 et seq. are to:
 - (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (2) Encourage the location of towers in nonresidential areas;
 - (3) Minimize the total number of towers throughout the community;
 - (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
 - (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
 - (7) Enhance the ability of the providers of telecommunications services to provide the services to the community quickly, effectively, and efficiently;
 - (8) Consider the public health and safety of communication towers; and
 - (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (C) In furtherance of these goals, Village of Kingsley shall give due consideration to the Village of Kingsley's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

§ 152.246 DEFINITIONS.

For the purpose of §§ 152.245 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERNATIVE TOWER STRUCTURE. Manmade trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

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.

BACKHAUL NETWORK. The lines that connect a provider's towers/cell sites to 1 or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

HEIGHT. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

PREEXISTING TOWERS AND PREEXISTING ANTENNAS. Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of §§ 152.245et seq., including permitted towers or antennas that have not yet been constructed so long as the approval is current and not expired.

TOWER.

- (1) Any structure that is designed and constructed primarily for the purpose of supporting 1 or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers.
- (2) The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.
- (3) The term includes the structure and any support thereto.

§ 152.247 APPLICABILITY.

- (A) New towers and antennas. All new towers or antennas in the Village of Kingsley shall be subject to these regulations, except as provided in divisions (B) through (D) below.
- (B) Amateur radio station operators/receive only antennas. § 152.245 et seq. shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.
- (C) Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of §§ 152.245et seq., other than the requirements of § 152.248(F) and (G).
- (D) AM array.
 - (1) For purposes of implementing §§ 152.245et seq., an AM array, consisting of 1 or more tower units and supporting ground system which functions as 1 AM broadcasting antenna, shall be considered 1 tower.
 - (2) Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array.
 - (3) Additional tower units may be added within the perimeter of the AM array by right.

§ 152.248 GENERAL REQUIREMENTS.

- (A) Principal or accessory use.
 - (1) Antennas and towers may be considered either principal or accessory uses.
 - (2) A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on the lot.
- (B) Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of

the entire lot shall control, even though the antennas or towers may be located on leased parcels within the lot.

(C) Inventory of existing sites.

- (1) Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Village of Kingsley or within 1 mile of the border thereof, including specific information about the location, height, and design of each tower.
- (2) The Zoning Administrator may share the information with other applicants applying for administrative approvals or special use permits under §§ 152.245et seq. or other organizations seeking to locate antennas within the jurisdiction of Village of Kingsley, provided, however, that the Zoning Administrator is not, by sharing the information, in any way representing or warranting that the sites are available or suitable.

(D) 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.

(E) Lighting.

- (1) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority.
- (2) If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(F) State or federal requirements.

- (1) All towers must meet or exceed 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.
- (2) If the standards and regulations are changed, then the owners of the towers and antennas governed by §§ 152.245et seq. shall bring the towers and antennas into compliance with the revised standards and regulations within 6 months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.
- (3) Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(G) Building codes; safety standards.

- (1) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time.
 - (2) If, upon inspection, the Village of Kingsley concludes that a tower fails to comply with the codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with the standards.
 - (3) Failure to bring the tower into compliance within the 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (H) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Village of Kingsley irrespective of municipal and county jurisdictional boundaries.
- (I) Not essential services. Towers and antennas shall be regulated and permitted pursuant to §§ 152.245et seq. and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- (J) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village of Kingsley have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- (K) Public notice. For purposes of §§ 152.245et seq., any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in § 152.251, in addition to any notice otherwise required by this chapter.
- (L) Signs. No signs shall be allowed on an antenna or tower.
- (M) Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of § 152.252.
- (N) Multiple antenna/tower plan.
- (1) The Village of Kingsley encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites.
 - (2) Applications for approval of multiple sites shall be given priority in the review process.

§ 152.249 PERMITTED USES.

- (A) Generally. The uses listed in this section are deemed to be permitted uses and shall not require administrative approval or a special use permit.
- (B) Specifically. The following uses are specifically permitted: antennas or towers located on property owned, leased, or otherwise controlled by the Village of Kingsley, provided a license or lease authorizing the antenna or tower has been approved by the Village of Kingsley.

§ 152.250 ADMINISTRATIVELY APPROVED USES.

(A) Generally. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

- (1) The Zoning Administrator may administratively approve the uses listed in this section.
- (2) Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in §152.251 and a nonrefundable fee as established by resolution of the governing body of the Village of Kingsley to reimburse Village of Kingsley for the costs of reviewing the application.
- (3) The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with §§ 152.248 and 152.251.
 - (a) The Zoning Administrator shall respond to each such application within 60 days after receiving it by either approving or denying the application.
 - (b) If the Zoning Administrator fails to respond to the applicant within 60 days, then the application shall be deemed to be approved.
- (4) In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in § 152.251 or separation distances between towers in § 152.251 by up to 50%.
- (5) In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
- (6) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to § 152.251 prior to filing any appeal that may be available under this chapter.

(B) List of administratively approved uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:

- (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with the tower or antenna, in any industrial or heavy commercial zoning district;
- (2) Locating antennas on existing structures or towers consistent with the terms of divisions (a) and (b) below:
 - (a) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of 8 or more dwelling units, provided:
 - (i) The antenna does not extend more than 30 feet above the highest point of the structure;
 - (ii) The antenna complies with all applicable FCC and FAA regulations; and
 - (iii) The antenna complies with all applicable building codes.
 - (b) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of

towers, collocation of antennas by more than 1 carrier on existing towers shall take precedence over the construction of new towers, provided the collocation is accomplished in a manner consistent with the following.

(i) Additional antenna. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

(ii) Height.

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(b) The height change referred to in division (B)(2)(b)2.a. above may only occur 1 time per communication tower.

(c) The additional height referred to in division (B)(2)(b)2.a. above shall not require an additional distance separation as set forth in § 152.251. The tower's premodification height shall be used to calculate the distance separations.

(iii) On-site location.

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only 1 tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to § 152.251. The relocation of a tower hereunder shall in no way be deemed to cause a violation of § 152.251.

(d) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in § 152.251 shall only be permitted when approved by the Zoning Administrator.

(3) New towers in nonresidential zoning districts. Locating any new tower in a nonresidential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in § 152.245 and the requirements of § 152.248; the tower meets the setback requirements in § 152.251 and separation distances in § 152.251; and the tower meets the following height and usage criteria:

(a) For a single user, up to 90 feet in height;

(b) For 2 users, up to 120 feet in height; and

(c) For 3 or more users, up to 150 feet in height.

- (4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Zoning Administrator is in conformity with the goals set forth in § 152.245; and
- (5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

§ 152.251 SPECIAL USE PERMITS.

(A) Generally. The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission.

- (1) If the tower or antenna is not a permitted use under § 152.249 or permitted to be approved administratively pursuant to § 152.250, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- (2) Applications for special use permits under this section shall be subject to the procedures and requirements of § 152.229, except as modified in this section.
- (3) In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes the conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (5) An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the Village Council of the Village of Kingsley to reimburse the Village of Kingsley for the costs of reviewing the application.

(B) Towers.

- (1) Information required. In addition to any information required for applications for special use permits pursuant to § 152.229, applicants for a special use permit for a tower shall submit the following information:
 - (a) A scaled site plan clearly indicating the location, type, and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in § 152.251, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance with §§ 152.245 et seq.;
 - (b) Legal description of the parent tract and leased parcel (if applicable);
 - (c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;

- (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to § 152.248 shall be shown on an updated site plan or map.
 - (e) The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - (f) A landscape plan showing specific landscape materials;
 - (g) Method of fencing and finished color and, if applicable, the method of camouflage and illumination;
 - (h) A description of compliance with §§ 152.248 and 152.251 and all applicable federal, state, or local laws;
 - (i) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users;
 - (j) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village of Kingsley;
 - (k) A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower; and
 - (l) A description of the feasible location(s) of future towers or antennas within the Village of Kingsley based upon existing physical, engineering, technological, or geographical limitations in the event the proposed tower is erected.
- (2) Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to § 152.229, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of 1 or more of these criteria if the Planning Commission concludes that the goals of §§ 152.245 et seq. are better served thereby:
- (a) Height of the proposed tower;
 - (b) Proximity of the tower to residential structures and residential district boundaries;
 - (c) Nature of uses on adjacent and nearby properties;
 - (d) Surrounding topography;
 - (e) Surrounding tree coverage and foliage;
 - (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (g) Proposed ingress and egress; and
 - (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in § 152.251.

- (3) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure, or alternative technology that does not require the use of towers or 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 structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (a) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicants proposed antenna.
 - (e) Cost.
 - (i) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
 - (ii) Costs exceeding new tower development are presumed to be unreasonable.
 - (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - (g) Alternatives.
 - (i) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable.
 - (ii) Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of §§ 152.245et seq. would be better served thereby.
- (a) Towers must be set back a distance equal to at least 75% of the height of the tower from any adjoining lot line.
 - (b) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(5) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of §§ 152.245et seq. would be better served thereby.

(a) Separation from off-site uses/designated areas.

- (i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
- (ii) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1	
Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units*	200 feet or 300% height of tower, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower,** whichever is greater
Vacant unplatted residentially zoned lands***	100 feet or 100% height of tower, whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower, whichever is greater
Non residentially zoned lands or nonresidential uses	None; only setbacks apply
NOTES TO TABLE: * Includes modular homes and mobile homes used for living purposes. ** Separation measured from base of tower to closest building setback line. *** Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.	

(b) Separation distances between towers.

- (i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers.
- (ii) The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.
- (iii) The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2: Existing Towers; Types				
	<i>Lattice</i>	<i>Guyed</i>	<i>Monopole 75 Feet in Height or Greater</i>	<i>Monopole Less Than 75 Feet in Height</i>
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Feet in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Feet in Height	750	750	750	750

- (6) Security fencing. Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Planning Commission may waive the requirements, as it deems appropriate.
- (7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive the requirements if the goals of §§ 152.245et seq. would be better served thereby.
- (a) Tower facilities shall be landscaped with a buffer of plant materials effectively screening the view of the tower compound from property used for residences.
 - (b) The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound.
 - (c) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - (d) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
 - (e) In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Ord. 98-3, passed 10-10-1998) Penalty, see § 152.999

§ 152.252 BUILDINGS OR OTHER EQUIPMENT STORAGE.

- (A) Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following.
- (1) The cabinet or structure shall not contain more than 400 square feet of gross floor area or be more than 55 feet in height.
 - (2) In addition, for buildings and structures which are less than 55 feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or 25 feet in height, shall be located on the ground and shall not be located on the roof of the structure.

- (3) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 50% of the roof area.
- (4) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (B) Antennas mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
 - (1) In residential districts, the equipment cabinet or structure may be located:
 - (a) In a front or side yard, provided the cabinet or structure is no greater than 20 feet in height or 400 square feet of gross floor area and the cabinet/structure is located a minimum of 15 feet from all lot lines.
 - (i) The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42 to 48 inches and a planted height of at least 36 inches; and
 - (b) In a rear yard, provided the cabinet or structure is no greater than 30 feet in height or 400 square feet in gross floor area.
 - (c) The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.
 - (2) In commercial or industrial districts:
 - (a) The equipment cabinet or structure shall be no greater than 55 feet in height or 400 square feet in gross floor area.
 - (b) The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.
 - (c) In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence 8 feet in height or an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.
- (C) Antennas located on towers. The related unmanned equipment structure:
 - (1) Shall not contain more than 400 square feet of gross floor area or be more than 55 feet in height; and
 - (2) Shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- (D) Modification of building size requirements. The requirements of § 152.252 may be modified:
 - (1) By the Zoning Administrator in the case of administratively approved uses; or
 - (2) By the Planning Commission in the case of uses permitted by special use to encourage collocation. (Ord. 98-3, passed 10-10-1998) Penalty, see § 152.999

§ 152.253 REMOVAL OF ABANDONED ANTENNAS AND TOWERS.

- (A) Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned; and
- (B) The owner of the antenna or tower shall remove the same within 90 days of receipt of notice from the Village of Kingsley notifying the owner of the abandonment.

- (C) Failure to remove an abandoned antenna or tower within the 90 days shall be grounds to remove the tower or antenna at the owner's expense.
- (D) If there are 2 or more users of a single tower, then this provision shall not become effective until all users cease using the tower. (Ord. 98-3, passed 10-10-1998) Penalty, see § 152.999

§ 152.254 NONCONFORMING USES.

- (A) Not expansion of nonconforming use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of §§ 152.245et seq. shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (B) Pre-existing towers.
 - (1) Pre-existing towers shall be allowed to continue their usage as they presently exist.
 - (2) Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on the preexisting towers.
 - (3) New construction other than routine maintenance on a preexisting tower shall comply with the requirements of §§ 152.245et seq.
- (C) Rebuilding damaged or destroyed nonconforming towers or antennas.
 - (1) Notwithstanding § 152.253, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in § 152.251.
 - (2) The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval.
 - (3) Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed.
 - (4) If no permit is obtained or if the permit expires, the tower or antenna shall be deemed abandoned as specified in § 152.253.

§ 152.255 EFFECTIVE DATE.

Sections 152.245et seq. shall take effect 11-10-1998.

ARTICLE 16. ADMINISTRATION

§ 152.270 ZONING ADMINISTRATOR.

- (A) The provisions of this chapter shall be enforced by the Village Council.
- (B) The Council shall employ a Zoning Administrator to act as its officer to effect proper administration of this chapter for the time and subject to the conditions as the Council deems desirable.
- (C) The Administrator shall hold office at the pleasure of the Council and receive the compensation as shall be determined by the Village Council.

§ 152.271 DUTIES AND POWERS OF ZONING ADMINISTRATOR.

The duty of administering and enforcing the terms of this chapter is hereby conferred upon the Village Zoning Administrator and, in furtherance thereof, he or she is empowered to:

- (A) Issue all permits and certificates, and maintain records thereof;
- (B) Conduct inspection of all buildings and structures and the use of all lands subject to the provisions of this chapter to determine compliance;
- (C) Maintain correct and permanent records of this chapter, including but not limited to maps, amendments, special use permits, variations, and appeals;
- (D) Maintain a public information office relative to all matters arising out of the administration of this chapter;
- (E) Investigate all applications for variances and special permits, and report all findings to the Village Council; and
- (F) Initiate appropriate action to notify the individual and the Village Council of any illegal act or violation of this chapter.

§ 152.272 FEE SCHEDULE.

- (A) To assist in defraying 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) Land use 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) Requests for rezoning of property by individual property owners or amendments to the zoning code text;
 - (6) Requests for a special meeting of the Planning Commission; and
 - (7) Change of use permits.
- (8) Appeals to and request for interpretations initiated by the Village Council, the Planning Commission, or the Zoning Administrator shall not be subject to zoning fee.

- (9) 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.
- (B) 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 costs to establish a legal fund. The basic zoning fees shall be paid before any application required under this section is processed. The basic zoning fees are non-refundable, even when the applicant withdraws an application or appeal.
- (C) 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 the 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 10% of the initial escrow deposit or less than 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 section 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 unexpected 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 prior to the issuance of any permit or the release of a final decision on an appeal.

§ 152.273 SPECIAL ADMINISTRATIVE REVIEW PROCESS.

- (A) Notwithstanding anything to the contrary contained in this chapter, and to secure compliance with Public Act 638 of 1978, being M.C.L.A. § 125.584a, with respect to procedures contained in this chapter pertinent to special land uses and/or planned unit developments, or concepts of this chapter under different terminology designed to accomplish similar objectives of a reviewing process, hereafter the reviewing required pertinent to the foregoing is also hereby similarly delegated, notwithstanding any other ordinance provision to the contrary.

- (B) An appeal from the decision of the Village Zoning Administrator by any person aggrieved may be taken to the Village Board of Appeals.
- (C) In addition to specific standards which may be applicable, the foregoing set of standards shall serve as the basis for decisions involving special land uses and other discretionary decisions contained in this chapter.
- (D) The proposed shall:
 - (1) Be compatible with adjacent uses of land;
 - (2) Be consistent with, and promote the intent and purpose of, this chapter;
 - (3) Be compatible with the natural environment;
 - (4) Be consistent with the capacities of public services and facilities affected by the proposed use; and
 - (5) Protect the public health, safety, and welfare.

§ 152.274 PUBLIC NOTIFICATION.

All applications for development approval requiring a public hearing shall comply with the provisions of the Michigan Zoning Enabling Act (MZEA) (PA 110 of 2006), Michigan Planning Enabling Act (MPEA) (PA 33 of 2008), and the other provisions of this section with regard to public notification.

- (A) Responsibility. When the provisions of this chapter or state law require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village of Kingsley and mailed or delivered as provided in this section.
- (B) Content. All mail, personal and newspaper notices for public hearings shall:
 - (1) Describe nature of the request. Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
 - (2) Location. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
 - (3) When and where the request will be considered. Indicate the date, time and place of the public hearing(s).
 - (4) Written comments. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
 - (5) Handicap access. Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
- (C) Personal and mailed notice.

- (1) General. When the provisions of this chapter or state law require that personal or mailed notice be provided, notice shall be provided to:
 - (a) The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - (b) Except for rezoning requests involving 11 or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the village. 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 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 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.
 - (c) For requests for interpretation or appeals of administrative decisions, to the person requesting an interpretation of the zoning ordinance or to a person appealing an administrative decision.
 - (d) In the case of a zoning ordinance amendment, rezoning or PUD review, each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.
 - (e) Other governmental units or infrastructure agencies within one mile of the property involved in the application.
- (2) Notice by mail/affidavit. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
- (D) Timing of notice. Unless otherwise provided in the MZEA, MPEA, or this chapter where applicable, notice of a public hearing shall be provided as follows:
 - (1) For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or chapter interpretation: not less than 15 days before the date the application will be considered for approval.
 - (2) For any other public hearing required by this chapter: not less than 15 days before the date the application will be considered for approval.

ARTICLE 17. VIOLATIONS

§ 152.285 NUISANCE PER SE.

Buildings erected, altered, razed, or converted or uses carried on in violation of any provision of this chapter are declared to be a nuisance per se and shall be subject to abatement or other action by a court of appropriate jurisdiction.

§ 152.286 VIOLATIONS.

- (A) Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of the same, who or which fails to comply with any of the provisions of this chapter or any of the regulations adopted in pursuance thereof, or who or which impedes or interferes with the enforcement of this chapter by the Zoning Administrator or other enforcement official, shall be deemed in violation of this chapter.
- (B) The Zoning Administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found to be in violation of this chapter. The order to correct a violation shall be issued by serving personally or by sending, by registered mail, return receipt requested, such order to the last known address of the owner of the property upon which the violation occurs or, when applicable, the violator. A party who has failed to accept such registered mail shall be deemed to have been served.

ARTICLE 18. ZONING BOARD OF APPEALS

§ 152.300 MEMBERS.

A 5-member Zoning Board of Appeals shall be appointed by the Village Council. Up to 2 alternate members may also be appointed. A concurring vote of the majority of members of the Zoning Board of Appeals shall be required to reverse any order, requirement, decision or determination of the administrative official or body, to decide in favor of the applicant, any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter.

§ 152.301 APPEALS TO THE APPEALS BOARD.

- (A) All appeals shall be made within 30 days from the date of any decision constituting the basis for appeal. A demand for a zoning appeal is received by the Zoning Administrator. Appeals can be filed by:
 - (1) A person aggrieved, or
 - (2) An officer, department, board, or bureau of the state or local unit of government.
- (B) The Appeals Board shall have the authority to hear appeals concerning:
 - (1) All questions that arise in the administration of the zoning ordinance, including interpretation of the zoning map.
 - (2) All administrative orders, requirements, decision or determination made by an administrative official or body charged with enforcement of the zoning ordinance.
 - (3) All decisions of the Zoning Administrator.
 - (4) All decisions concerning site plan review.
- (C) Upon receipt of a written demand for appeal, the administrator will review the demand for appeal to insure it is complete and the required fee is paid.
 - (1) If the application is not complete, the administrator will return the application to the applicant with a letter that specifies the additional material required.
 - (2) If the application is complete, the administrator and chairman of the Appeals Board shall establish a date to hold a hearing on the appeal.
- (D) The appeal stays all proceedings in furtherance of the action appealed, unless the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril of life or property, in which case proceedings may be stayed by a restraining order issued by the Zoning Board of Appeals or a Circuit Court.
- (E) A public hearing shall be held and notice provided pursuant to § 152.274.
- (F) The Appeals Board shall hold a hearing on the demand for appeal.
 - (1) Representation at hearing. Upon the hearing, any party or parties may appear in person or by agent or by attorney.
 - (2) Standards for variance decisions by the Appeals Board. The Appeals Board shall base its decisions on variances from the strict requirements of this chapter so that the spirit of the chapter is observed, public safety secured, and substantial justice done based on the following standards:
 - (a) For dimensional variances. A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates

in the official record of the public hearing that practical difficulty exists by showing all of the following:

- (i) That 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 is not due to the applicants' personal or economic difficulty.
 - (ii) That the need for the requested variance is not the result of actions of the property owner or previous property owners (i.e. self created).
 - (iii) 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.
 - (iv) That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
 - (v) 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.
- (b) Use variances. Under no circumstances shall the Appeals Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.
- (G) If the demand for appeal is for a variance the Appeals Board shall either grant, grant with conditions, or deny the application. The Appeals Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit. A majority vote of the membership of the Appeals Board is necessary to grant a dimensional variance and rule on an interpretation of the chapter. The decision shall be in writing and reflect the reasons for the decision. At a minimum the record of the decision shall include:
 - (1) Formal determination of the facts;
 - (2) The conclusions derived from the facts (reasons for the decision); and
 - (3) The decision.
- (H) Any person having an interest affected by such decision shall have a right to appeal to Circuit Court within 30 days of the certified decision of the Appeals Board, as provided by law.
- (I) Re-submission. No application for a variance or special exception which had been denied shall be resubmitted within 90 days from the last date of denial, except on grounds of newly discovered evidence or proof of changed conditions.

ARTICLE 19. SEXUALLY-ORIENTED BUSINESSES

§ 152.315 PURPOSE AND FINDINGS.

- (A) It is the purpose of this subchapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually- oriented businesses within the village. The provisions of this subchapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this subchapter to restrict or deny access by adults to sexually-oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this subchapter to condone or legitimize the distribution of obscene materials.
- (B) The adoption of this subchapter is based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings, studies and in reports made available to the Village Council, and on hearings, studies and in reports findings incorporated in various court cases as well as studies conducted in other cities including, but not limited to, Tucson, Arizona; Garden Grove, California; Ellicottville, New York; New York, New York; Times Square, New York; Oklahoma City, Oklahoma; Cleburne, Texas; Dallas, Texas; Houston, Texas; Newport News, Virginia; St. Croix, Wisconsin, and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually-Oriented Businesses (June 6, 1989, State of Minnesota). Based on this information, the Village Council finds that:
- (1) Sexually-oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
 - (2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually-oriented businesses are located.
 - (3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually-oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
 - (4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.
 - (5) Persons frequent certain adult theaters, adult arcades, and other sexually-oriented businesses, for the purpose of engaging in sex within the premises of such sexually-oriented businesses.
 - (6) At least 50 communicable diseases may be spread by activities occurring in sexually- oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.

- (7) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (8) Sanitary conditions in some sexually-oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities.
- (9) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually- oriented businesses where persons view adult oriented films.
- (10) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity.
- (11) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use.
- (12) Alcohol consumption in adult establishments increases the likelihood of crime, illegal drug use, and illegal sexual activity, and encourages undesirable behavior that is not in the interest of the public health, safety, and welfare.
- (13) The findings noted in above raise substantial governmental concerns.
- (14) Sexually-oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (15) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually-oriented businesses. Further, such licensing procedure will place a heretofore non-existent incentive on operators to see that the sexually- oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the village. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually-oriented business, fully in possession and control of the premises and activities occurring therein.
- (16) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.
- (17) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually-oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.
- (18) The fact that an applicant for a sexually-oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this subchapter.
- (19) The general welfare, health, morals, and safety of the citizens of this village will be promoted by enactment of this subchapter.
- (20) When more than 1 sexually-oriented business use occupies the same location or business address, the secondary effects caused by such businesses are

increased. Secondary effects are eliminated or controlled to a greater degree when only a single sexually-oriented business use is allowed to occupy the same location.

§ 152.316 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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, videos, or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any 1 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.

- (1) A commercial establishment, which, as 1 of its principal business purposes, offers for sale or rental for any form of consideration any 1 or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas”; or
 - (b) Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”
- (2) A principal business purpose exists if materials offered for sale or rental depicting or describing “specified sexual activities” or “specified anatomical areas” generate 20% or more of the business' income, or account for 20% or more of inventory, or occupy 20% or more of total floor space. 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 ADULT BOOKSTORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE or ADULT VIDEO STORE so long as 1 of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe “specified sexual activities” or “specified anatomical areas.”

ADULT CABARET. A nightclub, bar, restaurant, café, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

- (1) Persons who appear in a state of nudity or semi-nudity;
- (2) Live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”;
- (3) Films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or

- (4) Persons who engage in “exotic” or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT MOTEL. A hotel, motel or similar commercial establishment that:

- (1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or 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 this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than 24 hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 24 hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are distinguished or 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, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

EMPLOYEE. A person who performs any service on the premises of a sexually-oriented business on a full-time, part-time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the person is paid a salary, wage, or other compensation by the operator of the business. EMPLOYEE does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does EMPLOYEE include a person exclusively on the premises as a patron or customer.

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 1 of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT.

- (1) The opening or commencement of any sexually-oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;
- (3) The additions of any sexually-oriented business to any other existing sexually-oriented business;

- (4) The relocation of any sexually-oriented business; or
- (5) A sexually-oriented business or premises on which the sexually-oriented business is located.

LICENSE. A license for the operation of a sexually-oriented business and issued pursuant to this subchapter.

LICENSED DAY-CARE CENTER. A facility licensed by the state, whether situated within the village or not, other than a private residence, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Childcare center or day care center includes a facility that provides care for not less than 2 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 preschool, play-group, or drop-in center.

LICENSEE. A person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

LIVE THEATRICAL PERFORMANCE. A play, skit, opera, ballet, concert, comedy, or musical drama.

NUDE MODEL STUDIO. Any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

NUDITY or a STATE OF NUDITY. The appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

PREMISES. The real property upon which the sexually-oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually-oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to § 152.318;

SEMI-NUDE or SEMI-NUDITY. The appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER.

1. A business or commercial enterprise that, as 1 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 persons of the opposite sex and/or persons of the same sex when 1 or more of the persons is in a state of nudity or semi-nudity.

2. A principal business purpose exists if the services offered are intended to generate business income.

SEXUALLY-ORIENTED BUSINESS. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SPECIFIED ANATOMICAL AREAS.

1. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola;
2. The human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.
2. For which:
 - a. Less than 2 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - b. Less than 5 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;
 - c. Less than 5 years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are for 2 or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period;
3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

SPECIFIED SEXUAL ACTIVITIES.

1. Acts of human masturbation, actual or simulated;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
4. Human genitals in a state of sexual stimulation or arousal.
5. Excretory functions as part of or in connection with any of the activities set forth in above.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY-ORIENTED BUSINESS.

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

§ 152.317 ADMINISTRATION AND ENFORCEMENT.

- (A) The Zoning Administrator shall be designated to administer and enforce the provisions of this subchapter. The Zoning Administrator may designate authorized agents to assist in the administration and enforcement of this subchapter.
- (B) The Zoning Administrator shall:
 - (1) Receive and review all application for sexually-oriented business license, and approve or disapprove such applications based on compliance or non-compliance with the provisions of this subchapter.
 - (2) Maintain maps showing current locations within the village where sexually-oriented business are located and where additional sexually-oriented business may be located taking into consideration the location restrictions set forth in this subchapter and all applicable zoning requirements.

§ 152.318 LICENSE REQUIRED.

- (A) It shall be unlawful for a person to operate a sexually-oriented business without a valid license issued by the Zoning Administrator.
- (B) An application for a license must be made on a form provided by the village. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business and the percentage of the total floor space that will be occupied by the sexually-oriented business activity. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.
- (C) Applications for a license shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:
 - (1) The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.
 - (2) The name and street address (and mailing address, if different) of the owner(s), if different.
 - (3) The name under which the establishment is to be operated and a general description of the services to be provided and the products to be carried in inventory for sale, rent or display to customers.
 - (4) The telephone number of the establishment or, if unavailable, the operator's.
 - (5) The address, and legal description, of the tract of land on which the establishment is to be located.

- (D) All applicants for a license must be qualified according to the provisions of this subchapter. The application may request, and the applicant shall provide, such information reasonably necessary (including fingerprints) to enable the village to determine whether the applicant meets the qualifications established under this subchapter. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.
- (E) If a person who wishes to own or operate a sexually-oriented business is an individual, he or she must sign the application for an operator's license as applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a 10% or greater interest in the business must sign the application for an operator's license as applicant. If a corporation is listed as owner of a sexually-oriented business or as the entity that wishes to operate such a business, all corporate officers and directors must sign the application for an operator's license as applicant.
- (F) The fact that a person possesses other types of state or county permits and/or licenses does not exempt him or her from the requirement of obtaining a sexually-oriented business license from the village.
- (G) The application shall be accompanied by the following:
- (1) Payment of the application fee in full;
 - (2) If the establishment is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto;
 - (3) If the establishment is a Michigan limited liability company, a certified copy of the articles of organization, together with all amendments thereto;
 - (4) If the establishment is a foreign corporation or limited liability company, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;
 - (5) If the establishment is a limited partnership formed under the laws of the state, a certified copy of the certificate of limited partnership, together with all amendments thereto;
 - (6) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;
 - (7) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;
 - (8) If the persons identified as the fee owner(s) of the tract of land in subsection (7) is not also the owner of the sexually-oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually-oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually-oriented business; and
 - (9) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually-oriented businesses within 1,500 feet of the property to be certified; and the property lines of any established religious institution, church, place of worship, synagogue, school, public park or recreation

area within 750 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(H) The application shall contain a statement under oath that:

- (1) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
- (2) The applicant has read the provisions of this subchapter.

§ 152.319 ISSUANCE OF LICENSE.

(A) The Zoning Administrator shall approve or deny the issuance of a license to an applicant within 30 days after receipt of a completed application, unless the applicant requests that this period be extended for up to 10 days under division (C), in which case the approval or denial shall be made with the extended period. The Zoning Administrator shall issue a license unless it is determined by a preponderance of the evidence that 1 or more of the following findings is true:

- (1) An applicant is under 18 years of age. (Individual applicants only).
- (2) An applicant is overdue in his or her payment of taxes, fines, or penalties assessed against him or her or imposed upon him or her in relation to a sexually-oriented business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) An application for the proposed establishment is in violation of or is not in compliance with any of the provisions of this subchapter.
- (5) An applicant has been convicted of any of the following criminal offenses in any jurisdiction in the past 5 years:
 - (a) Prostitution, procuring a prostitute, or solicitation of a prostitute;
 - (b) Sale, distribution or display of obscene material;
 - (c) Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
 - (d) Possession, sale or distribution of child pornography;
 - (e) Public lewdness;
 - (f) Indecent exposure;
 - (g) Indecent conduct with a child;
 - (h) Sexual assault, criminal sexual conduct, or rape;
 - (i) Incest;
 - (j) Sexual solicitation of a child.

(6) The applicant shall certify, as a part of the application, that he/she/it has not been convicted of any 1 or more of the foregoing criminal offenses.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually-oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.

- (C) In the event that the Zoning Administrator determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within 30 days of the receipt of its application by the Zoning Administrator, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than 10 days at any time before the notice is issued in order to make modifications necessary to comply with this subchapter. In the event the Zoning Administrator fails to render a decision on the application within the time specified herein, the applicant shall be permitted to commence operation of the business.
- (D) An applicant may appeal the decision of the Zoning Administrator regarding a denial to the Village Council by filing a written notice of appeal with the Village Clerk within 10 days after service of notice upon the applicant of the Zoning Administrator's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully and specifically the grounds for such appeal and all arguments in support thereof. The Zoning Administrator may, within 15 days of service upon him or her of the applicant's memorandum, submit a responsive memorandum to the Village Council. After reviewing such memoranda, as well as the Zoning Administrator's written decision, if any, and exhibits submitted to the Zoning Administrator, the Village Council shall vote either to uphold or overrule the Zoning Administrator's decision. The vote shall be taken within 30 calendar days after the date on which the Village Clerk receives the notice of appeal. The Village Council shall, in its determination, make findings of fact supporting its decision. Judicial review of a denial by the Zoning Administrator and Village Council may be made pursuant to § 152.322.

§ 152.320 SUSPENSION.

- (A) The Zoning Administrator shall suspend a license for a period not to exceed 30 days if he or she determines that licensee or an employee of licensee has:
- (1) Violated or is not in compliance with any section of this subchapter;
 - (2) Operated or performed services in a sexually-oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
 - (3) Refused to allow prompt inspection of the sexually-oriented business premises as authorized by this subchapter; or
 - (4) With knowledge, permitted gambling by any person on the sexually-oriented business premises.
- (B) The Zoning Administrator, before suspending any license, shall give the licensee at least 10 days' written notice of the charges against him or her, and shall cause written notice to be delivered pursuant to § 152.336 informing the person of the right to appeal the suspension upon request. Suspension shall take effect 10 days from date of notice, unless within that time, an appeal is filed with the Village Council. When a suspension is appealed to the Village Council, the suspension will become effective, if and when the Village Council decides that the suspension is proper.
- (C) A licensee may appeal the suspension of a license to the Village Council in accordance with the procedure set forth in § 152.318(D), or may seek direct judicial review pursuant to § 152.322.

- (D) Any license issued by the village may be immediately suspended by the Zoning Administrator without a hearing if it is determined that the licensee has violated or someone at or upon the licensed location has violated the village ordinance or state law and that continued operation under the license is an immediate threat to public health, safety, and welfare. Suspension under this division shall take effect immediately, but may be appealed under the procedure described in division (B).

§ 152.321 REVOCATION.

- (A) The Zoning Administrator shall revoke a license if a cause of suspension in § 152.320 occurs and the license has been suspended within the preceding 12 months.
- (B) The Zoning Administrator shall revoke a license if he or she determines that:
- (1) A licensee gave materially false or misleading information in the material submitted during the application process;
 - (2) A licensee was convicted of a specified criminal activity on a charge that was pending prior to the issuance of the license;
 - (3) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;
 - (4) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;
 - (5) A licensee has, with knowledge, permitted prostitution on the premises;
 - (6) A licensee has, with knowledge, operated the sexually-oriented business during a period of time when the licensee's license was suspended;
 - (7) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;
 - (8) A licensee is delinquent in payment to the village or state for any taxes, fees, fines, or penalties relating to the sexually-oriented business or the premises thereof;
 - (9) A licensee has, with knowledge, permitted a person under 18 years of age to enter or remain in the establishment; or
 - (10) A licensee has attempted to sell his or her license, or has sold, assigned, or transferred ownership or control of the sexually- oriented business to a non-licensee of the establishment;
- (C) The Zoning Administrator, before revoking any license, shall give the licensee at least 10 days' written notice of the charges against him or her, and shall cause written notice to be delivered pursuant to § 152.336 informing such person of the right to appeal the revocation upon request. Revocation shall take effect 10 days from date of notice, unless within that time, an appeal is filed with the Village Council. When a suspension is appealed to the Village Council, the suspension will become effective, if and when the Village Council decides that the revocation is proper.
- (D) A licensee may appeal the revocation of a license to the Village Council in accordance with the procedure set forth in § 152.319(D), or may seek direct judicial review pursuant to § 152.322.
- (E) When a license is revoked, the licensee shall not be issued a new license for 1 year from the date revocation became effective.

§ 152.322 JUDICIAL REVIEW.

Within 21 days of a denial of an initial application by the Zoning Administrator and Village Council, or suspension or revocation of a license by the Zoning Administrator and Village Council, the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction, state or federal. The administrative action shall then be reviewed by the court for a prompt judicial determination.

§ 152.323 OTHER APPEALS.

All decisions and determinations made by the Zoning Administrator in the enforcement of §§ 152.316, 152.326 and 152.337 may be appealed to the Zoning Board of Appeals, which shall have the power to hear and decide appeals from decisions and determinations of the Zoning Administrator and to hear appeals for the interpretation of those provisions of this subchapter.

§ 152.324 INSPECTION.

The village shall regularly inspect the premises of the sexually-oriented business in order to ensure compliance with the provisions of this subchapter. An applicant or licensee shall permit the Zoning Administrator or representatives of the Code Enforcement Office, Grand Traverse County Sheriff and his or her deputies, and/or Health Department to inspect the premises at any time the establishment is open for business in order to determine compliance with the requirements of this subchapter and other applicable village, county, and state ordinances and statutes. The inspection shall include visual assessment of the activities conducted in areas to which patrons have access or are allowed access and requests for identification of those individuals who reasonably appear to be under the age of 18. A person who operates a sexually-oriented business or his or her agent or employee commits a misdemeanor if he or she refuses to promptly permit such lawful inspection of the premises.

§ 152.325 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually-oriented business under the authority of a license at any place other than the address designated in the application.

§ 152.326 LOCATION RESTRICTIONS.

Sexually-oriented businesses shall be permitted in the C-2 Commercial and Industrial Districts provided that:

- (A) The sexually-oriented business may not be operated within:
 - (1) Seven-hundred fifty feet of a church, synagogue, mosque, temple, regular place of worship, and for the purpose of this section a CHURCH, SYNAGOGUE, MOSQUE, or TEMPLE means an entire house or structure set apart primarily for use for purposes of public worship and related religious activities, and which is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure of which is kept for that use and not put to any other use inconsistent with that use;

- (2) Seven-hundred fifty feet of a public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school;
 - (3) Seven-hundred fifty feet of a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, wilderness areas, or other similar public land within the village which is under the control, operation, or management of the village;
 - (4) Seven-hundred fifty feet of the property line of a lot zoned for residential use and devoted to a residential use as defined in this chapter; or
 - (5) One thousand, five hundred feet of another sexually-oriented business.
- (B) A sexually-oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually- oriented business.
- (C) For the purpose of this subchapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day care center.
- (D) For purposes of division (C), the distance between any 2 sexually-oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

§ 152.327 ADDITIONAL REGULATIONS PERTAINING TO ADULT CABARETS.

A person who operates or causes to be operated an adult cabaret, shall comply with the following requirements:

- (A) Upon application for a sexually-oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of 1 or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 30 square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
- (B) The application shall be sworn to be true and correct by the applicant.

- (C) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator.
- (D) It is the duty of the owners and operator of the premises to ensure that at least 1 employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (E) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has 2 or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least 1 of the manager's stations. The view required in this division must be by direct line of sight from the manager's station.
- (F) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in division (E) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (A) of this section.
- (G) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5 foot-candles as measured at the floor level.
- (H) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (I) The premises shall contain a dressing room for performers with direct access between the dressing area and the performance area or stage so that the performer may enter the performance area or stage without entering the area from which patrons will view the performance. The dressing area for performers must be separate and not freely accessible from areas of the business accessible to patrons, and the dressing area must contain hot and cold running water and toilet facilities.
- (J) There shall be no physical contact between any performer and any other performer or between any performer and any owner, independent contractor, employee, patron or other person during or for at least 15 minutes following such performance. Physical contact includes, but is not limited to, any contact in which any part of the body or clothing of 1 person touches any part of the body or clothing of the other person or if a person causes anything under that person's direct control to touch any part of the body or clothing of another person.
- (K) The premises shall meet all barrier free requirements and building code requirements imposed by the village or County Building and Inspections Department.
- (L) Licensee shall provide sufficient fences or barriers or shall so patrol the boundaries of his or her business premises as to efficiently prevent his or her patrons from directly trespassing on neighboring premises.

§ 152.328 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

- (A) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated 2 or more times in a period of time that is less than 10 hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.
- (B) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually-oriented business license, rents or subrents a sleeping room to a person and, within 10 hours from the time the room is rented, he rents or subrents the same sleeping room again.
- (C) For purposes of division (B) of this section, the terms RENT or SUBRENT mean the act of permitting a room to be occupied for any form of consideration.

§ 152.329 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

- (A) An escort agency shall not employ any person under the age of 18 years.
- (B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

§ 152.330 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

- (A) A nude model studio shall not employ any person under the age of 18 years.
- (B) A person under the age of 18 years shall not appear semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division if the person under 18 years was in a restroom not open to the public view or visible by any other person.
- (C) A person shall not appear in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

§ 152.331 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS AND VIDEOS.

A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (A) Upon application for a sexually-oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of 1 or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some

designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus 6 inches.

- (B) The application shall be sworn to be true and correct by the applicant.
- (C) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator or his or her designee.
- (D) It is the duty of the owners and operator of the premises to ensure that at least 1 employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (E) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has 2 or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least 1 of the manager's stations. The view required in this division must be by direct line of sight from the manager's station.
- (F) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in division (E) of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to division (A) of this section.
- (G) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5 foot-candles as measured at the floor level.
- (H) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (I) No viewing room or booth may be occupied by more than 1 person at any time.
- (J) No opening of any kind shall exist between viewing rooms or booths.
- (K) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than 1 person at a time occupies a viewing booth or room, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.
- (L) The operator of the sexually-oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.
- (M) The operator of the sexually-oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (N) The operator of the sexually-oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous,

easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

§ 152.332 EXTERIOR PORTIONS OF SEXUALLY-ORIENTED BUSINESSES; HOURS OF OPERATION.

- (A) It shall be unlawful for an owner or operator of a sexually-oriented business to allow any sexually explicit merchandise or activities of the establishment to be visible from a point outside the establishment.
- (B) It shall be unlawful for the owner or operator of a sexually-oriented business to allow the exterior portion of the sexually-oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual by explicit manner except to the extent otherwise permitted by the provisions of this subchapter.
- (C) Signs shall contain no lettering, photographs, silhouettes, drawings or pictorial representations of a sexually explicit manner, and may contain only the name of the enterprise.
- (D) No sexually-oriented business shall remain open at any time between the hours of 2:00 a.m. and 7:00 a.m. on weekdays and Saturdays, and 2:30 a.m. and noon (12:00 p.m.) on Sundays, nor shall any entertainment, service, or product be provided to a customer on the premises of a sexually-oriented business during those hours.

§ 152.333 PERSONS YOUNGER THAN 18 PROHIBITED FROM ENTRY; ATTENDANT REQUIRED.

- (A) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually-oriented business at any time that the sexually-oriented business is open for business.
- (B) It shall be the duty of the operator of each sexually-oriented business to ensure that an attendant is stationed at each public entrance to the sexually-oriented business at all times during such sexually-oriented business' regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the sexually-oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:
 - (1) A valid operator's, commercial operator's, or chauffeur's license; or
 - (2) A valid personal identification certificate issued by the state reflecting that such person is 18 years of age or older.

§ 152.334 MESSAGES OR BATHS ADMINISTERED BY PERSON OF OPPOSITE SEX.

It shall be unlawful for any sexually-oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex.

§ 152.335 EXEMPTION.

- (A) It is a defense to prosecution under this subchapter that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school, licensed by the state, a college, junior college, or university supported entirely or partly by taxation;
 - (2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- (B) Notwithstanding any other provision in this subchapter, movies rated G, PG, PG-13, or R, by the Motion Picture Association of America (MPAA), or live theatrical performances with serious artistic, social, or political value, that depict or describe specified anatomical areas or specified sexual activities, are expressly exempted from regulation under this subchapter.

§ 152.336 NOTICES.

- (A) Any notice required or permitted to be given by the village or other agency under this subchapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or transfer application that has been received by the village, or any notice of address change that has been received by the village. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the village shall cause it to be posted at the principal entrance to the establishment.
- (B) Any notice required or permitted to be given to the village by any person under this subchapter shall not be deemed given until and unless it is received in the principal office of the village.
- (C) It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the village in writing of any change of residence or mailing address.

§ 152.337 NON-CONFORMING USES.

- (A) Any business lawfully operating on the effective date of this subchapter that is in violation of the location or structural configuration requirements of this subchapter shall be deemed a non-conforming use. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If 2 or more sexually-oriented businesses are within 1,500 feet of one another and otherwise in a permissible location, the sexually-oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is non-conforming.
- (B) A sexually-oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant of the sexually-oriented business license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, within 750 feet of the sexually-oriented business. This provision does not apply when an application for a license is submitted after a license has been revoked.

§ 152.338 FEES.

The application fee shall be set by resolution of the Village Council. The fee schedule for appeals under this subchapter shall be the same as for appeals to the Zoning Board of Appeals under the Zoning Code.

§ 152.339 INJUNCTION.

A person who operates or causes to be operated a sexually-oriented business without a valid license or otherwise violates this subchapter shall be subject to a suit for injunctive relief and/or revocation of the sexually-oriented business license as well as prosecution for criminal violations. Each day a sexually-oriented business so operates is a separate offense or violation.

§ 152.340 NUISANCE PER SE.

Any violation of any provision of this subchapter is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

ARTICLE 20. AMENDMENTS

§ 152.355 AMENDMENTS.

Amendments to this chapter shall be adopted in conformance with PA 110 of 2006.

§ 152.999 PENALTY.

- (A) Generally. Penalties for violation of this chapter shall be punishable as provided in Title I, General Provisions, § 10.99. The provisions of Chapter 11, Municipal Civil Infractions, also apply to violations of this chapter. Each act of violation and each day during which such violation continues shall constitute a separate offense. The imposition of any sentence shall not exempt the offense from compliance with the requirements of this chapter.
- (B) Authority to pursue court action. The Village Council or its duly authorized representative is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court, or any other court having jurisdiction, to restrain or prevent any noncompliance with or violation of any of the provisions of this chapter and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such noncompliance or violation may institute suit or join the Village Council in such a suit to abate the violation.
- (C) Other remedies. The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the village to initiate proceedings in an appropriate court of law to restrain or prevent any noncompliance with any provisions of this chapter or to correct, remedy, or abate such noncompliance.
- (D) Rights and remedies preserved. Any failure or omission to enforce the provisions of this chapter, and failure or omission to prosecute any violations of this chapter, shall not constitute a waiver of any rights and remedies provided by this chapter or by law and shall not constitute a waiver nor prevent any further prosecution of violations of this chapter.