Village of Pentwater

Zoning Ordinance



Village Ordinance No. 99-8

Village of Pentwater

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CHAPTER 1
TITLE AND PURPOSE

SECTION 1.01 SHORT TITLE

This Ordinance shall be known as the "Village of Pentwater Zoning Ordinance."

SECTION 1.02 PURPOSE

The purpose of this Ordinance is to promote and safeguard the public health, safety, morals, prosperity and general welfare of the people. The provisions are intended to, among other things:

- encourage the use of lands, waters and other natural resources in accordance with their character and most suitable use;
- to limit the improper use of land and resources;
- to provide reasonable terms under which the lawful use of non-conforming buildings, structures, and land may be continued;
- to reduce hazards to life and property;
- to provide for orderly development;
- to avoid overcrowding of the population;
- to provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered;
- to lessen congestion on the public roads and streets;
- to protect and conserve natural recreational areas, agricultural, residential, and other areas naturally suited to particular uses;
- to facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public requirements;
- to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties.

SECTION 1.03 THE EFFECT OF ZONING

A. For the purpose of this Ordinance, except as hereafter specifically provided, no lot, land or premises shall be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations for the Zoning District in which it is located; these limitations being the minimum legislation necessary to promote and protect the general safety and welfare of the Village.

B. In case any land, building, structure, or part thereof is used, erected, altered or occupied contrary to Law or to the provisions of this Ordinance, such use of land, building or structure shall be unlawful and shall be declared a nuisance and such use of land may be required to cease and buildings or structures may be required to be vacated, torn down, or abated by any legal means and such land, building, or structure shall not be used or occupied until brought into conformance.

C. If construction on a building or structure is lawfully begun prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any such building, provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned or designed use within two (2) years from the effective date of this Ordinance.

CHAPTER 2
DEFINITIONS

SECTION 2.01 RULES APPLYING TO TEXT

A. If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the portion which can be given effect without the invalid portion or application, providing such remaining portions are not determined by the court to be inoperable, and to this end all portions of this Ordinance are declared to be severable.

B. If the meaning of this Ordinance is unclear in a particular circumstance, then the body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if such intent can be discerned from other provisions of the Ordinance or law.

C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

D. All words and phrases shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

E. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.

F. A "building" or "structure" includes any part thereof.

G. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

H. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.

1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
2. "Or" indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
4. A masculine term shall include the feminine version of the term, and vice versa.

I. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

SECTION 2.02 DEFINITIONS - A

ACCESSORY BUILDING (Amended 5-12-08)

A building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use. When an accessory building is attached to a main building in a substantial manner, by means of a common wall or walls and roof, the accessory building shall be considered a part of the main building. Unless so attached, an accessory building shall be located no less than ten feet from the main building.

ACCESSORY FOOD SERVICE (Amended 5-12-08)

Light meals that do not include the use of deep fryers, commercial stoves, associated mechanical hoods and venting, or other commercial cooking equipment.

ACCESSORY USE

A use naturally and normally incidental and subordinate to, and devoted exclusively to the main use of the land or building.

ADULT USES

The term shall include adult book stores, adult cabarets, adult motion picture theaters, massage establishments, and nude artist and photography studios. These terms shall have the following indicated meanings:

A. Adult Book Store

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals, videotapes, movies, or adult-related novelties which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

B. Adult Cabaret

An establishment including, but not limited to, a cafe, restaurant or bar which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.

C. Adult Motion Picture Theater

An establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein.

D. Massage Establishment (Amended 5-29-03)

Any establishment having a fixed place of business where massages are administered by pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, osteopath, or physical therapist (or massage establishment with a therapist who is certified by the American Massage Therapy Association, American Medical Massage Therapy, National Certification Board of Therapeutic Massage and Bodywork and or a graduate of a Licensed School of massage therapy or duly licensed by the State

of Michigan, nor barber shops or beauty salons in which massages are administered.). This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. A *Massage* is defined as a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.

E. Nude Artist and Photography Studio

Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display "specified anatomical areas" as defined herein for artists and photographers for a fee or charge.

F. Specified Anatomical Areas: Specified anatomical areas are defined as less than completely and opaquely covered:

1. Human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

G. Specified Sexual Activities: Specified sexual activities are defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

AGRICULTURE

The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.

ALLEY

A public way not more than thirty-three (33) feet in width which affords a secondary means of access to abutting property but not being intended for general traffic circulation.

ALTERATIONS

Any change, addition or modification in construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."

ARCHITECTURAL FEATURES

Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

AVERAGE GRADE (Amended 9/10/07)

The mean or midway point between the highest and lowest elevation of the ground abutting the existing or proposed location of each face of a building, wall, or other area being measured, particularly for the purpose of regulating the number of stories and the height of buildings. The

measurement of average grade may include the following measurements as determined by the Zoning Administrator:

A. Existing or natural grade – the grade of a site that exists or existed prior to man-made alterations, such as grading, filing or excavating.

B. Finished grade – the final grade of a site, after grading, filling or excavating.

SECTION 2.03 DEFINITIONS - B

BASEMENT OR CELLAR

A portion of a building having more than one-half (½) of its height below grade.

BED AND BREAKFAST ESTABLISHMENT

A use within a detached single dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

BOARD OF APPEALS, or BOARD

As used in this Ordinance, this term means the Village of Pentwater Zoning Board of Appeals, where specified.

BOAT DOCK

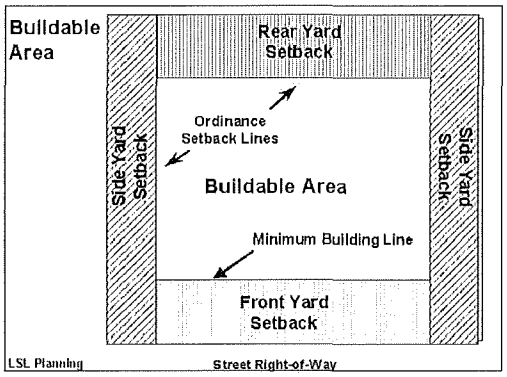
A boat dock or dock is a platform extending from the shore of a Waterfront Lot used to moor, land or provide access to boats or vessels or is used as a walkway. Boat docks are subject to the requirements of Section 3.31. A private boat dock is a boat dock restricted to the use of persons residing on the premises or their guests, or with respect to marinas or commercial businesses, by patrons of the premises. A boat dock shall not be leased, rented, or otherwise made available for compensation, unless such dock is approved as a marina, subject to the special land use requirements of this Ordinance and state and federal regulations.

BOAT LAUNCH

A facility used for the purposes of loading and unloading recreational and commercial watercraft into a body of water. A private boat launch shall be a boat launch restricted to the private use of persons residing on the premises or their guests. A private boat launch shall not be leased, rented or otherwise made available for compensation. Unless used only as a private boat launch, a boat launch must be approved as a special land use in compliance with this Ordinance, including Section 15.04.N.

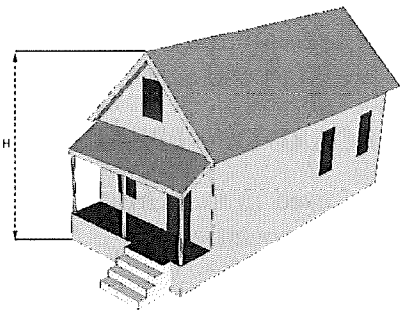
BUILDABLE AREA

The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been met.



BUILDING

An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the enclosure of persons, animals, or chattels, or carrying on business activities or other uses. When any portion thereof is completely separated from every other part thereof by division of walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.



BUILDING HEIGHT (Amended 9/10/07)

The building height is the vertical distance measured from the average grade to the highest point of the building.

BUILDING INSPECTOR

A building inspector shall refer to the person or agency appointed by the Village Council as the Building Inspector for the Village.

BUILDING, MAIN

A building in which is conducted the principal use of the lot on which it is situated.

BUILDING PERMITS

A building permit is the written authority as issued by the Building Inspector permitting the construction, moving, alteration or use of a building in conformity with the provisions of this Ordinance and the adopted Building Code.

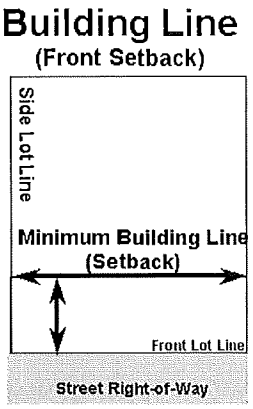
BUILDING SETBACK LINES

Lines marking the setback distance from the lot lines which establish the minimum permitted front, side, or rear yards.

A. Front Building Setback Line. The line marking the setback distance from the front lot line which establishes the minimum front yard setback area.

B. Rear Building Setback Line. The line marking the setback distance from the rear lot line which establishes the minimum rear yard setback area.

C. Side Building Setback Lines. Lines marking the setback distance from the side lot lines which establish the minimum side yard setback area.



LSL Planning, Inc.

SECTION 2.04 DEFINITIONS - C

COMMERCIAL

This term relates to the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement enterprise or garage/basement sales operating more than twelve (12) days during any one (1) twelve (12) month period.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES

Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

COMMISSION, PLANNING

This term shall mean the Village of Pentwater Planning Commission.

COUNCIL

The term "Council" shall be used to refer to the Village Council of the Village of Pentwater.

SECTION 2.05 DEFINITIONS - D

DRIVE THROUGH FACILITY

A commercial establishment whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle.

DWELLING, OR DWELLING UNIT (Amended 9/10/07)

A building, or any portion of a building, used or intended to be used for residential purposes as a housekeeping unit or a domicile by one or more persons containing facilities for (a) sleeping and (b) cooking and/or sanitary facilities.

DWELLING, MULTIPLE FAMILY

A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in said building. This definition includes three (3) family buildings, four (4) family buildings, and apartment houses.

DWELLING, TWO-FAMILY

A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in said building. It may also be termed a duplex.

DWELLING, SINGLE-FAMILY (DETACHED)

A detached building used or designed for use exclusively by one (1) family. It may also be termed a one (1) family unit.

SECTION 2.06 DEFINITIONS - E

ENGINEER

Engineer shall refer to the person or firm appointed by the Village Council as the Engineer for the Village.

ERECTED

The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

ESSENTIAL SERVICES

The phrase "essential services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare, but not including cellular telephone or communications towers or buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment.

EXCAVATING

Excavating shall be the removal of soil below the average grade of the surrounding land and/or road grade, whichever shall be highest, except common household gardening.

SECTION 2.07 DEFINITIONS - F

FAMILY

A. An individual or group of two (2) or more persons elated by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or

B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single non-profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FAMILY DAY CARE HOME (Amended 5-12-08)

A private home in which more than one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care homes shall include a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. Such family day care homes shall be licensed under Act 116 of the Public Acts of 1973.

FARM

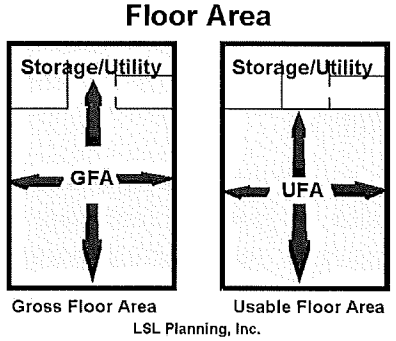
The use of land for cultivation or for raising of livestock for commercial purposes, including greenhouses, nurseries and orchards, but not including intensive livestock operations, stone quarries, or gravel, dirt, or sand removal operations.

FENCE (Amended 9/10/07)

Any permanent fence, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit.

FLOOR AREA, GROSS (GFA) (Amended 8-5-04) (Amended 11-14-11)

A. The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The gross floor area shall include the following: corridors; stairways; closets; mezzanines; attics (except as provided below); breezeways; and attached decks, courts, balconies and/or patios that are covered with more than two (2) sides. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade. (See Basement.)



B. Gross floor area shall not include attic space having headroom of six and one-half (6-1/2) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or

loading shall not be included in floor area. Areas of basements (except as provided above), breezeways, porches, or attached garages are not included.

FLOOR AREA, USABLE (UFA)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers; or area used in a dwelling unit for living purposes. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

FRONTAGE (See Lot Width)

SECTION 2.08 DEFINITIONS - G

GARAGE (Amended 11-14-11)

A building used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on which such building is located. The foregoing definition shall be construed to permit the storage on any one (1) lot, for the occupants thereof, of commercial vehicles. A garage, whether attached or detached, shall be considered an accessory building.

GROUP DAY CARE HOME (Amended 5-12-08)

A private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A group day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. A group day care home shall be licensed in accordance with Act 116 of the Public Acts of 1973.

SECTION 2.09 DEFINITIONS - H

HOME OCCUPATION

An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single-family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

HOTEL

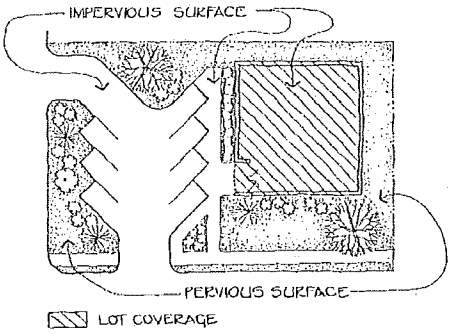
A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals. A hotel shall include accessory uses, including, but not limited to gift shops, restaurants, and other similar uses primarily oriented to the customers of the hotel.

SECTION 2.10 DEFINITIONS - I

(Amended 12-9-02)

IMPERVIOUS SURFACE

That surface covered with a material that prohibits the growth of vegetation and/or prevents the infiltration of water into previously undeveloped land. An impervious surface shall include but is not limited to streets, sidewalks, parking lots, buildings or structures, paving (including paver bricks whether grouted with sand or mortar), drives, patios and ground level boardwalks.



INOPERATIVE VEHICLES

Any motor vehicle which is currently not capable of being started and safely and properly operated on the highway.

INTENSIVE LIVESTOCK OPERATIONS

An agricultural operation that meets the following criteria:

A. A total of seven hundred and fifty (750) dairy cattle (all classes); seven hundred and fifty (750) slaughter or feeder cattle, one thousand eight hundred (1,800) swine (all classes), one hundred thousand (100,000) poultry (all classes); five thousand (5,000) sheep or goats (all classes); or two hundred (200) horses (all classes); or

B. A population per acre of at least four (4) dairy cattle, four (4) slaughter or feeder cattle, twenty (20) swine, seven hundred (700) poultry, ten (10) sheep or goats, or four (4) horses.

SECTION 2.11 DEFINITIONS - J

JUNK

For the purpose of this Ordinance, this term shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured.

JUNK YARD

The term "junk yard" includes automobile wrecking yards and salvage areas and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include uses established entirely within enclosed buildings.

SECTION 2.12 DEFINITIONS - K

KENNEL

Any lot or premises on which four (4) or more animals, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or for sale.

SECTION 2.13 DEFINITIONS - L

(Amended 5-12-08)

LAWN

Ground cover consisting of grass or sod kept closely mowed, commonly used as a primary ground cover.

LOADING SPACE

An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT

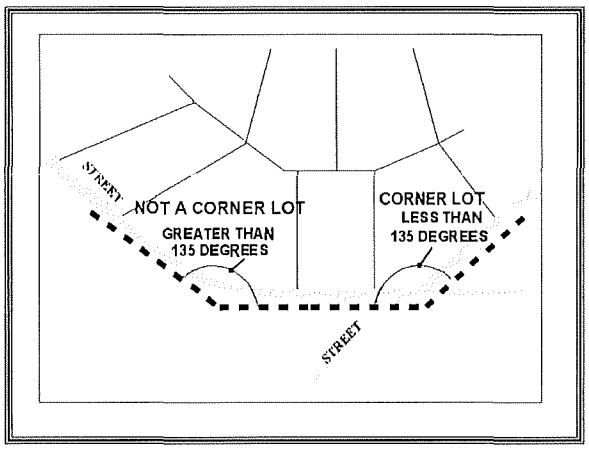
A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include plot or parcel whether separately described by a metes and bounds description, part of a platted subdivision, or a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use. A lot need not be a "lot of record."

LOT AREA

The total horizontal area within the lot lines of a lot excluding road right-of-way.

LOT, CORNER

A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less.



LOT COVERAGE

The part or percent of the lot occupied by impervious surfaces.

LOT, DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a through lot.

LOT, DOUBLE FRONTAGE (THROUGH)

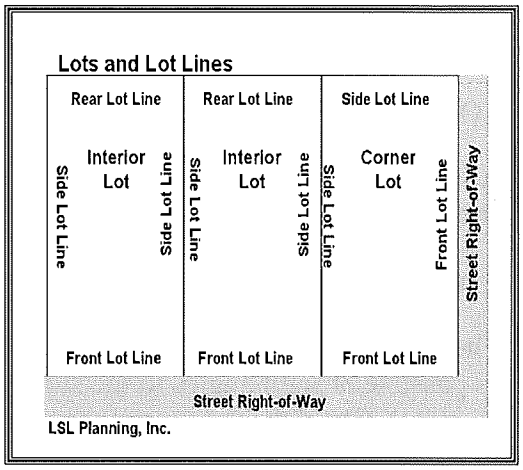
A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots in the plat in the request for zoning compliance permit. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where such structures presently front.

LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street.

LOT LINES

The property lines bounding the lot.



A. Front Lot Line.

1. Interior Lots. In the case of an interior lot, the lines separating the lot from the adjacent public or private street right-of-way or access easement, or from other adjacent land owned by or dedicated to the County Road Commission, State Transportation Department or other public road agency, whichever shall provide the greater front yard building setback distance from the center line of the street right-of-way.

2. Through Lots and Corner Lots. Through lots, having frontage on two approximately parallel streets, and corner lots, having contiguous frontage on two intersecting streets, shall be considered to have two front lot lines, consisting of the lines separating said lot from each of the streets abutting the lot. The shorter of the two intersecting lot lines shall be considered the front lot line for purposes of determining the rear lot line. When the two intersecting lot lines are equal in length, the Zoning Administrator shall designate one of the lines as the front lot line for this purpose.

B. Rear Lot Line. Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the real lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line. (See Double Frontage Lot).

C. Side Lot Line. Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

D. Waterfront Lots. In the case of a waterfront lot, the front lot shall be the lot line on the waterfront. That lot line shall be located, for purposes of this ordinance, at the ordinary high water mark.

LOT OF RECORD

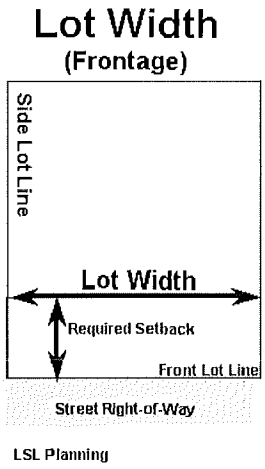
A lot of record is a lot or parcel that is specifically and separately described in a deed or any recorded land contract, recorded memorandum of land contract or other recorded instrument, including a platted subdivision or a condominium and site condominium master deed, which has the effect of conveying the lot or an interest therein, and where such conveyance is approved by the Village Council if required by ordinance or law and is recorded in the office of the Oceana County Register of Deeds prior to the effective date of this Ordinance or any relevant amendment thereof. A recorded survey or the establishment of a separate tax identification number for a lot or parcel of land shall not, by itself, have the effect of establishing the lot or parcel of land as a lot of record.

LOT, WATERFRONT

A lot that has frontage directly upon a lake, river or other naturally formed impoundment of water and that meets the minimum lot width requirements of the district in which it is located.

LOT WIDTH

The horizontal distance between the side lot lines, measured as nearly as possible at right angles to the side lot lines at all points between the front building setback line and the rear building setback line.



SECTION 2.14 DEFINITIONS - M

MANUFACTURED HOME

A residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long-term occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected.

MANUFACTURED HOME PARK

A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

MANUFACTURED HOME SPACE

A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.

MARINA

A facility extending into or over a body of water which offers service to the public or members of the marina for docking, loading, servicing, or other activities related to recreational or commercial watercraft. A private dock in compliance with the requirements of Section 3.31 of this Ordinance shall not be considered a marina.

MASTER PLAN

The Master Plan currently adopted by the Village of Pentwater, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the Village of Pentwater, and includes any unit or part of such plan and any amendment to such plan.

MOTEL

A series of attached, semi-attached, or detached rental units providing overnight lodging for transients, open to the traveling public for compensation. A motel shall not include accessory used, such as gift shops, restaurants, and other similar uses.

MOTOR HOME

A motorized vehicular unit primarily designed for temporary dwelling in connection with travel and/or recreational usage. This term does not include manufactured homes.

SECTION 2.15 DEFINITIONS - N

NON-CONFORMING BUILDING

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance in the Zoning District in which it is located.

NON-CONFORMING LOT OF RECORD

A lot, whether platted or unplatted, that conformed with all zoning lot requirements at the time of recording but which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance.

NON-CONFORMING USE

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

NON-RESIDENTIAL DISTRICT

Non-residential District shall refer to the C-1, C-2, C-3, C-4, and LI Districts, as described in this ordinance.

NURSING HOME (Amended 5-12-08)

A home licensed under Article 17 of the Public Health Code, Act 368 of the Public Acts of 1978, to provide nursing care or to provide a home for the aged or infirm.

SECTION 2.16 DEFINITIONS - O

(Amended 12-9-02)

OPEN AIR BUSINESS

Uses operated for profit substantially in the open air, including, but not limited to:

A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.

B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools, and similar activities.

C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

ORDINARY HIGH WATER MARK

The line as determined by the Zoning Administrator between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

SECTION 2.17 DEFINITIONS - P

PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

PARKING SPACE

An off-street space of at least one hundred sixty-two (162) square feet exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed primarily on the premises.

PLANNED UNIT DEVELOPMENT

A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

PORCH, ENCLOSED

A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PORCH, OPEN

A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PUBLIC UTILITY

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, or water services.

SECTION 2.18 DEFINITIONS - R

RECREATION VEHICLE OR EQUIPMENT

A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

RESIDENTIAL DISTRICT

Residential District shall refer to the Rural Residential, R-1, R-2, R-3 and Manufactured Home Park Zoning Districts, as described in this Ordinance.

ROADSIDE STAND

A farm building or separate structure used for the display or sale of agricultural products grown on the premises upon which the stand is located.

SECTION 2.19 DEFINITIONS - S

SALVAGE YARD

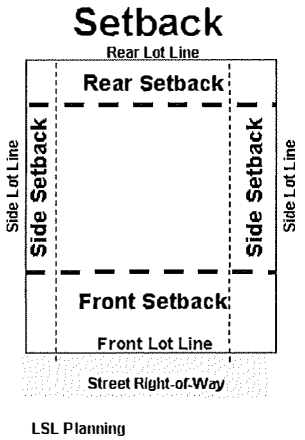
An open space where waste, surplus, discarded, or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including house wrecking and structural steel materials and equipment and automobile wrecking.

SATELLITE DISH ANTENNA, OR DISH ANTENNA

An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

SETBACK

The minimum required horizontal distance measured from the front, side, or rear lot line, as the case may be, to the nearest roofed portion of the main building or group of buildings, which describes an area termed the required setback area on a lot or parcel.



SHORELINE

The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

SIGNIFICANT NATURAL FEATURE

Any natural area as designated by the Planning Commission, Village Council, or the Michigan Department of Natural Resources, or other appropriate governmental agency which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

SOLAR ENERGY COLLECTOR-BUILDING MOUNTED

A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall, or other element in whole or in part of a building. Also includes building-integrated photovoltaic systems (BIPV).

SOLAR ENERGY COLLECTOR-GROUND MOUNTED

A solar energy collector that is not attached to and is separate from any building on the lot on which the solar energy collector is located.

SOLAR ENERGY SYSTEM- ACCESSORY USE

A solar energy system that is an accessory to the primary use of a lot, such as a residence or a commercial building, and that primarily provides electricity intended for use by a primary structure located on the same parcel as the solar energy system. Accessory systems can range in size and configuration. They typically range from being small enough to power an exterior light fixture to being large enough to power electricity for multiple buildings, for instance livestock or equipment barns. Accessory systems can be affixed to the roof or wall of a building or can be freestanding, ground-mounted structures.

SOLAR ENERGY SYSTEM- PRINCIPAL USE

A ground-mounted solar energy system that captures and converts solar energy into electricity, for the purpose of sale or for use in locations other than solely the solar energy system principal lot.

STATE-LICENSED RESIDENTIAL FACILITY (Amended 5-12-08)

A home licensed under Article 17 of the Public Health Code, Act 368 of the Public Acts of 1978, to provide nursing care or to provide a home for the aged or infirm under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended.

STORY

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or, if it is used for business purposes.

STORY, HALF (Amended 8-5-04)

That part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (½) the floor area of said full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least six and one-half (6½) feet, at its highest point.

STREET, PUBLIC

A public thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an allay.

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

SECTION 2.20 DEFINITIONS - T

TEMPORARY BUILDING OR USE

A structure or use permitted by the Zoning Administrator to exist during periods in accordance with the requirements of this Ordinance during periods of construction of the main building or for special events.

TRAVEL TRAILER

A vehicular, portable unit built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, not exceeding eight (8) feet in width or thirty-five (35) feet in length. It includes folding campers and truck mounted campers.

SECTION 2.21 DEFINITIONS - U

USE, PRINCIPAL

The primary purpose for which land or premises, or a building thereon, is designed, arranged, or intended, for which it is occupied, or maintained, let, or leased.

SECTION 2.22 DEFINITIONS - V

VEHICLE REPAIR

Any major activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

VEHICLE SERVICE STATION

A building and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of such commodities on or in such vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Chapter.

VEHICLE WASH ESTABLISHMENT

A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

VILLAGE

The term "Village" shall be used to refer to the Village of Pentwater.

SECTION 2.23 DEFINITIONS - W

WATERFRONT ACCESS PARCEL

A lot of record which is a waterfront lot and which is in compliance with the requirements of Section 3.31.A of this Ordinance.

WATERFRONT ACCESSORY LOT

A lot of record which is in compliance with the requirements of Section 3.31.E of this Ordinance.

WETLAND

Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

WIND ENERGY HARVEST SYSTEMS (Amended 12/8/08)

Ambient. Ambient is defined as the sound pressure level exceeded 90% of the time or $L_{90.}$

Decibel. The unit of measure used to express the magnitude of sound pressure and sound intensity.

MET Tower. A guy-wire supported tower containing instrumentation such as anemometers that is designed to, and used for, the assessment of the wind resource on site.

On Site Use Wind Energy Systems. An On Site Use wind energy system is intended to primarily serve the needs of the consumer and do not exceed a tower height of 66'.

Rotor. An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

SCADA Tower. A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.

Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window at a dwelling.

Sound Pressure Level. The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Tower Height. Tower height shall be determined by the measuring the distance between the base of the tower (at grade) to the highest point of the tower. Turbine blades are not considered in determining tower height. If the tower is installed on an existing structure, tower height shall be measured from the grade of the existing structure, not from the base of the tower.

Utility Grid Wind Energy Systems. A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid with a tower height of at least 66'.

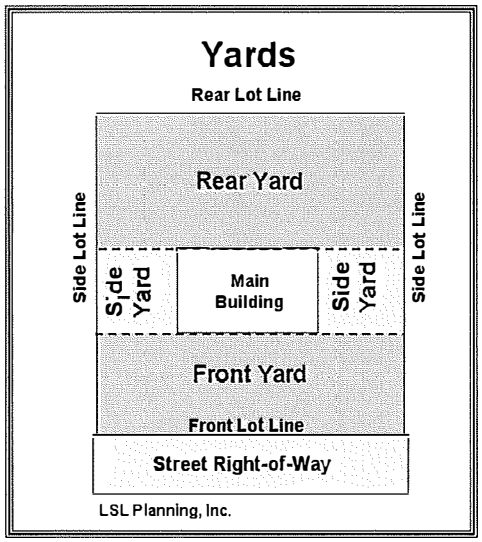
Wind Energy Conversion System. A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. For purposes of this ordinance, there are two types of wind energy conversion systems: **On Site** and **Utility Grid** Wind Energy Systems.

Wind Site Assessment. An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

SECTION 2.24 DEFINITIONS - Y

YARD

A yard is an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.



A. A front yard is an open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.

B. A rear yard is an open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.

C. A side yard is an open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

YARD; FRONT, REAR, SIDE

A general term describing the space on a lot or parcel containing a main building, lying between the nearest wall, eave, overhang or other roofed portion of the main building and the respective front, rear and side property lines.

SECTION 2.25 DEFINITIONS - Z

ZONING ACT

The Michigan Zoning Enabling Act, Act 110 of 2006 of the Public Acts of Michigan, as amended.

ZONING ADMINISTRATOR

A person designated by the Village Council to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS, OR BOARD.

The Zoning Board of Appeals of the Village of Pentwater.

CHAPTER 3
GENERAL PROVISIONS

SECTION 3.01 REQUIRED AREA, SPACE, AND USE CONDITIONS AND EXCEPTIONS

A. No lots or lots in common ownership and no yard, parking area or other space shall be so divided, altered or reduced as to make such area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

B. A lot which is platted, or otherwise lawfully of record as of the effective date of this Ordinance, may be used as specified in the District in which it is located, provided the lot conforms to the requirements of the Oceana County Health Department. The main building on such lot shall be located so that it meets at least eighty percent (80%) of the yard requirements of the District in which it is located.

C. If two (2) or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, are:

1. in common ownership;
2. adjacent to each other or have continuous frontage; and
3. individually do not meet the lot width or lot area requirements of this Ordinance.

The lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance. Such parcels shall be combined into such lot or lots meeting the lot width and lot size requirements of this Ordinance. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this Ordinance.

SECTION 3.02 MAXIMUM PERMITTED BUILDING HEIGHT

No building or structure shall exceed 35 feet in height unless otherwise provided in this ordinance and except as follows: (Amended 9/10/07) (Amended 10/12/2026)

A. The following buildings and structures shall be exempt from height regulations in all districts if they do not exceed fifty (50) feet and do not constitute habitable space: chimneys, elevated water towers, church spires, penthouses housing necessary mechanical appurtenances, wind-powered electric generators, solar energy systems, and television and radio reception and transmission antennas and towers. On lands located in the C-3 District, qualified exemptions included in this section exceeding fifty (50) feet may be approved by the Planning Commission as a Special Land Use in accordance with the requirements of Chapter 15.

B. Additions to existing buildings and structures which now exceed the height limitations of their District may be constructed to the height of the existing building or structure to which the addition is attached if the lot is large enough to encompass a circular area with a radius at least equal to the height of the tallest structure or building.

SECTION 3.03 PRINCIPAL USE

A. No lot or parcel of land shall contain more than (1) main building or one (1) principal use.

B. Land and buildings may be considered a principal use collectively if the following conditions are met.

1. The land and buildings are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.
2. All uses, if not the same, shall be similar in function and/or operation.

SECTION 3.04 STREET ACCESS

Any lot created after the effective date of this Ordinance shall front upon a public street or upon a private street right-of-way meeting the requirements of Section 3.26.

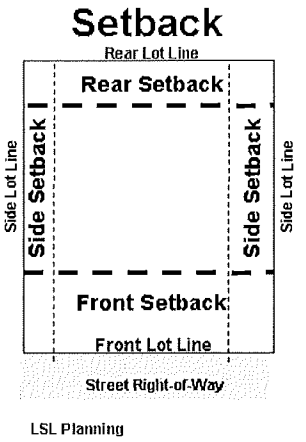
SECTION 3.05 BASIS OF DETERMINING FRONT YARD REQUIREMENTS

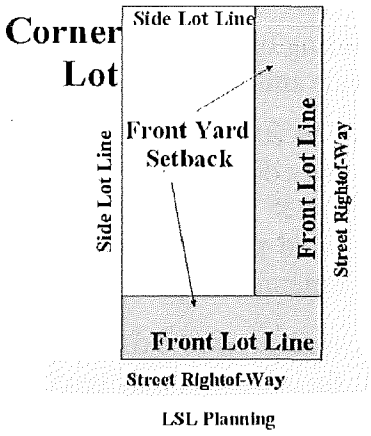
A. The front yard setback line shall be measured from the right-of-way line or property line, to an imaginary line across the width of the lot drawn at the minimum required front setback distance for that district.

B. On waterfront lots, the front yard shall be considered as the portion of the lot facing the waterfront.

C. Where an average setback line which is less than that required by this Ordinance has been established by existing buildings located within two hundred (200) feet of the proposed building within the same zoning district and on the same side of the street, such average setback shall apply.

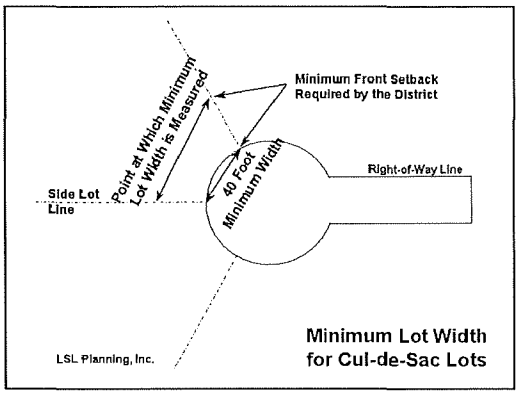
D. On corner and through lots, the front yard requirements shall apply on both streets, except that a waterfront lot shall not be considered as a through lot. Corner lots shall have two (2) front lot lines and two (2) side lot lines and no rear lot line.





SECTION 3.06 MINIMUM LOT WIDTH FOR IRREGULAR SHAPED LOTS

The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the front yard setback line and shall not be diminished throughout the rest of the lot. Such lots shall have a minimum lot width of forty (40) feet at the front property line.



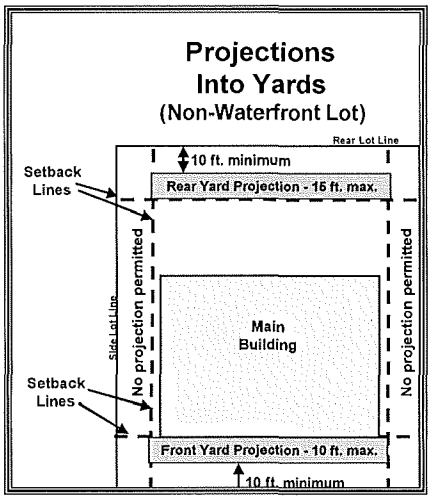
SECTION 3.07 PROJECTIONS INTO YARDS

(Amended 11-13-00)

A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features:

1. may project a maximum of four (4) feet into a required front or rear yard setback area; and
2. shall not project into the required side yard setback.

B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on all sides, unenclosed, and uncovered and extend more than six (6) inches above the average grade:



1. On non-waterfront lots such structures:
   a. may project a maximum of ten (10) feet into a required front yard setback area;
   b. may project a maximum of fifteen (15) feet into a required rear yard setback area;
   c. shall not project into a required side yard setback area.
   d. shall not be placed closer than ten (10) feet to any front or rear lot line.
2. On waterfront lots such structures:
   a. shall meet the average front and rear yard setbacks established by existing similar structures on waterfront lots adjacent to the subject property;
   b. shall not project into a required side yard setback area;
   c. shall not be placed closer than ten (10) feet to any front or rear lot line;
   d. Where there is no average front or rear yard setback, such structures may project a maximum of ten (10) feet into a required front or rear yard.
   e. In no case shall such structures be placed closer than ten (10) feet to the ordinary high watermark, or shoreline, as measured at the midpoint of the lot, or at the minimum front setback, whichever is less.
   f. Waterfront lots are also subject to the requirements of Chapter 8.

3. If such structures are permanently enclosed on any side, covered in any manner, or otherwise attached to the main building, they shall be considered part of the main building.

SECTION 3.08 ACCESSORY BUILDING AND USES

(Amended 5-12-08) (Amended 11-14-11) (Amended 4-13-26)

A. When an accessory building is attached to a main building in a substantial manner, such as a common wall or roof, including enclosed porches and attached garages, the accessory building shall be deemed a part of such buildings and must conform to all setback and height regulations of this Ordinance applicable to such main buildings.

B. An accessory building or use shall only be permitted on a lot which contains a principal use or main building, except as may otherwise be permitted by this Ordinance. Buildings related to an active commercial farming operation in compliance with GAAMPS are exempt from this requirement. Buildings and structures in compliance with Sections 3.31.D and 3.31.E, governing certain waterfront lots, are exempt from this requirement.

C. No part of an accessory building shall be used as a dwelling for residential purposes.

D. The maximum floor areas for all accessory buildings located on the same lot, whether attached or detached:

1. For single and two-family dwellings:
   a. For lots of ten-thousand (10,000) square feet in area or less: one thousand (1,000) square feet GFA.
   b. For lots greater than ten thousand (10,000) square feet in area, up to two (2) acres: one thousand five hundred (1,500) square feet GFA.
   c. For lots of two (2) to five (5) acres: two thousand (2,000) square feet GFA.
   d. For lots of more than five (5) acres: two thousand five hundred (2,500) square feet GFA.
2. Other uses:
   a. Buildings accessory to agricultural operations: no size or height limitation.
   b. Multiple family developments: nine hundred sixty (960) square feet, excluding garages for the use of residents.
   c. Manufactured home parks: as required by Chapter 9.
   d. Uses in Non-residential Districts and non-residential uses in Residential Districts: not to exceed twenty-five percent (25%) of the floor area of the main building(s).

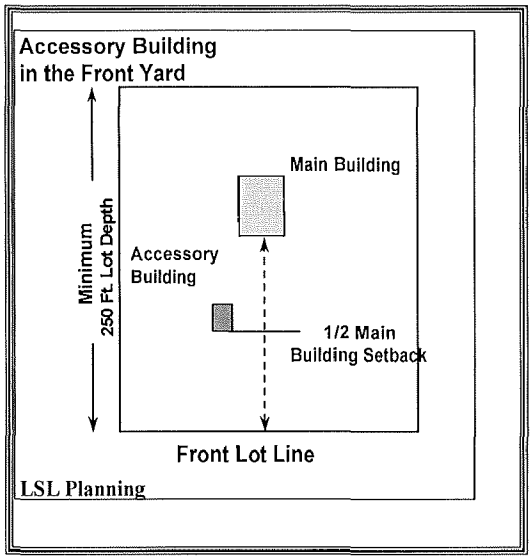
E. Location of detached accessory buildings.

1. Detached accessory buildings shall be located a minimum of ten (10) feet from any main building.
2. Detached accessory buildings shall not be located in the front yard, unless each of the following three requirements are satisfied:

a. The subject lot shall have a depth of no less than 250 feet;

b. Such accessory building shall not be located nearer to the front lot line than one-half the distance between the front lot line and the main building; and

c. Such accessory building shall be at least 30 feet from the front lot line."



3. Detached accessory buildings equal to or less than one hundred and forty-four (144) square feet GFA shall be located a minimum of three (3) feet from any side or rear lot line;

4. Detached accessory buildings greater than one hundred and forty-four (144) square feet GFA shall be located a minimum of six (6) feet from any side or rear lot line.

F. Accessory buildings in excess of one hundred and forty-four (144) square feet must be designed, constructed, and finished such that the exterior appearance is compatible in terms of materials, color, and general construction with that of the main building.

G. Side and rear yard setbacks for detached accessory buildings shall be measured to the eaves of the building.

H. Detached accessory buildings in Residential Districts less than one thousand (1,000) square feet GFA shall not exceed fifteen (15) feet in height. Detached accessory buildings in Residential Districts equal to or greater than one thousand (1,000) square feet GFA shall not exceed eighteen (18) feet in height, except those buildings used for agricultural operations. Attached accessory buildings may be permitted at the same height as that required for the main building.

SECTION 3.09 REGULATIONS APPLICABLE TO ALL SINGLE-FAMILY DWELLINGS

It is the intent of this Section to establish minimum standards of appearance and construction for all single-family dwellings, whether constructed on a lot or a manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with all of the following standards:

A. If the dwelling unit is a manufactured home, the manufactured home must either be:

1. new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or

2. used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.

B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire energy and other similar codes which are or may be adopted by the Village, and with applicable federal or state standards or regulations for construction. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.

C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the District in which it is located.

D. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the adopted building code.

E. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels and towing mechanism removed.

F. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty-four (24) feet at time of manufacture, placement or construction.

G. The dwelling unit shall be connected to public sewer and water supply systems, or to private facilities for potable water and disposal of sewage approved by the Oceana County Health Department.

H. The foregoing standards shall not apply to a manufactured home located in a manufactured home park licensed by the Michigan Mobile Home Commission and approved by the Village according to the provisions contained in Chapter 9 of this Ordinance except to the extent required by state or federal law.

SECTION 3.10 TEMPORARY USES OR BUILDINGS REQUIRING ZONING ADMINISTRATOR AUTHORIZATION

A. Upon application, and as noted below, the Zoning Administrator may issue a permit for the following temporary buildings or uses. Each permit shall specify a location for such building or use and shall be valid for a period of not more than twelve (12) calendar months. Permits may be renewed by the Zoning Administrator for one (1) additional successive period of six (6) calendar months or less at the same location and for the same purpose provided that the reason for the extension is due to circumstances beyond the immediate control of the applicant for the permit extension.

1. Temporary office building or construction yard incidental and necessary to construction at the site where located.
2. Temporary sales office or model home incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, such temporary office or model home shall be removed when fifty percent (50%) or more of the lots or units have been sold or leased.

B. In considering authorization for all temporary uses or buildings, the Zoning Administrator shall consider the following standards and may attach reasonable conditions to temporary uses or structures to ensure that the standards of this Section are met. The Zoning Administrator shall determine that:

1. the use or structure will not have an unreasonable detrimental effect upon adjacent properties;
2. the use or structure is reasonably necessary for the convenience and safety of the construction proposed;
3. the use or structure does not adversely impact the character of the surrounding neighborhood; and
4. access to the use area or structure is located at a safe location.

SECTION 3.11 FENCES

(Amended 11-13-00) (Amended 12-9-02)

A. Fences shall not be constructed in any public right-of-way.

B. Residential Districts

1. Non-Waterfront Lots
   a. A fence may not be located within any front setback unless such fence is a height of three (3) feet or less and of a type which is not more than fifty percent (50%) solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.
   b. Corner lots have two (2) front yards setbacks and Section 3.11.B.1.a will apply to these setbacks.
   c. Fences may not exceed a height of six (6) feet above grade in any other area; provided, however, in circumstances where the grade slopes, standard six-foot fence panels may be installed, even though the fence as installed may slightly exceed six feet in height because of the slope. The fence panels or material in such a case shall be installed as near to the surface of the ground as is practical. For purposes of this section, height should be measured from the finished grade, but all alterations to grade shall comply with the provisions of Section 3.33 governing alterations to grade. Fence or support posts may not exceed a height of seven (7) feet above grade. (Amended 9/10/07)
2. Waterfront Lots
   a. Except as noted in D, a fence may not be located within any front yard.
   b. A fence may not be located within any front yard or rear yard unless such fence is a height of three (3) feet or less and of a type which is not more than fifty percent (50%) solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.
   c. Fences may not exceed a height of six (6) feet in any other area.
   d. A seasonal fence, not exceeding four (4) feet in height, may be erected and maintained on or after October 30 of each year and removed on or before

May 1 of the following year. Seasonal fences shall be set back a minimum of twenty (20) feet from the side lot line. For the purposes of this subsection, a seasonal fence shall be considered a temporary fence used for the purpose of controlling drifting sand or snow. No permit fee shall be required for a seasonal fence.

C. No fence shall contain any barbed wire or electrification except in the R-R District where necessary for agricultural purposes, or for the protection pf public utility buildings or improvements. The barbed portion of the fence shall be at least six (6) feet from the ground, in which case the height of a fence may extend to a maximum of eight (8) feet.

D. Fences in the R-R District used to enclose vacant land or land used for agricultural purposes may be erected within any yard up to a height of sic (6) feet. Such fences shall be of an open type so as to not obstruct vision.

E. Densely landscaped areas, such as hedges and closely spaced bushes or other plant materials, may be considered as a fence when they have the effect or accomplish the purposes normally associated with fences.

F. All new fences shall require a zoning permit, in accordance with the requirements of Section 19.07. All seasonal fences shall comply with Section 3.11.B.2.d.

SECTION 3.12 GREENBELTS AND LANDSCAPING

A. In order to provide protective screening for Residential Districts or uses adjacent or near Non-residential Districts or uses, the Zoning Administrator or Planning Commission may require a landscaped greenbelt be installed on the Non-residential District or use property.

1. The greenbelt shall be a strip at least ten (10) feet in width planted and maintained with evergreens, such as spruce, pines, or firs at least five (5) feet in height, or a hedge of evergreens at least four (4) feet in height, at time of planting, and situated so as to provide an effective sound and visual permanent buffer.
2. A lesser greenbelt may be permitted by the Zoning Administrator or Planning Commission where existing vegetation, topography, or other conditions are present which would create the same effect as the required greenbelt.
3. All landscaped areas and plant materials shall be kept in a healthy growing condition, neat and orderly in appearance. Dead or diseased plant materials shall be replaced.

B. Any shrubs, bushes or other growing plants which project into or across adjacent land may be trimmed back to the property line by the adjacent property owner.

SECTION 3.13 INSTALLATION OF LANDSCAPING

(Amended 12-9-02)

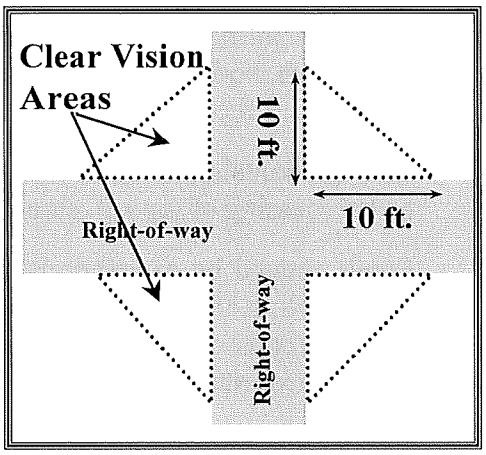
A. Any site where filling or grading work is required shall have such filling or grading work accomplished so an not to alter the natural drainage of adjoining land.

B. Any site on which a permanent main use is established shall install a lawn or other type of living ground cover for land areas disturbed as a result of construction and not covered by

impervious surfaces within nine (9) months after a certificate of occupancy is issued. A performance guarantee may be required by the Zoning Administrator to ensure that landscaping is installed within this period.

C. No landscape materials other than lawn and street trees approved by the Village or the County Road Commission shall be planted within any public road right-of-way.

SECTION 3.14 CLEAR VISION



A. No plantings shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points ten (10) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended.

B. This Section shall not prohibit the placement of shrubbery or other materials less than thirty (30) inches in height at maturity.

C. No vegetation shall be maintained in any setback area of any District, which, in the opinion of the Zoning Administrator, will obstruct the view from vehicles entering or leaving the site from driveways or adjacent roadways.

SECTION 3.15 ESSENTIAL SERVICES

The erection, construction, alteration or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any District. The intent of this is to exempt such actions regarding essential services from the application of this Ordinance.

SECTION 3.16 TEMPORARY STORAGE OF USED MATERIALS

The storage, collection, or placing of used or discarded material, such as lumber, scrap iron, ashes, slag or other commercial or industrial by-products or waste is prohibited without a Temporary Permit obtained from the Zoning Administrator, which shall be accompanied by a performance guarantee. In reviewing such request, the Zoning Administrator shall consider the length of time requested, the visibility of such storage area from surrounding properties, potential safety concerns, the ability to provide adequate security fencing and aesthetic screening, and other factors relevant to the specific location.

SECTION 3.17 ILLEGAL DWELLINGS

The use of any basement for dwelling purposes is forbidden in any Zoning District unless said basement meets the appropriate adopted building codes for the Village. Buildings erected as garages or accessory buildings shall not be occupied for dwelling purposes.

SECTION 3.18 EXCAVATIONS, HOLES, OR PONDS

A. The construction, maintenance, or existence of any unprotected, unbarricaded, open, or dangerous excavations, holes, pits, or wells, which constitute or are likely to constitute a danger or menace to the public health, safety, or welfare, are hereby prohibited; provided, however, this Section shall not prevent any excavation under a permit issued by the Building Inspector where such excavations are properly protected and warning signs posted in such manner as approved by the Building Inspector; and provided further, that this Section shall not apply to streams, natural bodies of water, or to ditches, reservoirs, and other such bodies of water created or existing by authority of governmental units or agencies, or the creation of ponds used for recreational, agricultural, or other purposes.

B. This Section shall not include excavations related to approved operations for the removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

C. Ponds created by excavations shall be setback a minimum of fifteen (15) feet from any property line. The edge of the pond shall be considered the point at which excavations begins. Ponds shall have a side slope of not less than three (3) feet horizontal to one (1) foot vertical run.

D. Excavations which remove more than three hundred (300) cubic yards of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources from the lot or parcel shall only be permitted as required by this Ordinance.

SECTION 3.19 OUTDOOR STORAGE IN RESIDENTIAL DISTRICTS

(Amended 5-12-08)

The outdoor storage or parking of recreational vehicles or equipment shall be prohibited in all Residential Districts, unless the following minimum conditions are met:

A. Recreational vehicles or equipment may only be parked as an accessory use for lots on which a main use or principal building is located and such parking shall not be located within the front yard or nearer than three (3) feet to a side or rear lot line, except as noted in B, below.

B. Recreational vehicles or equipment shall not be located in the front yard of a lot unless each of the following requirements are satisfied:

1. The subject lot has a depth no less than 250 feet;
2. Such recreational vehicles or equipment shall not be located nearer to the front lot line than one-half the distance between the front lot line and the main building; and
3. Such recreational vehicles or equipment shall be at least 30 feet from the front lot line."

C. Notwithstanding the provisions of this Section, recreational vehicles or equipment may be parked within any yard for cleaning, loading, or unloading purposes for not more than forty-eight (48) hours within any seven (7) day period provided that no public sidewalk is blocked or a visual obstruction created.

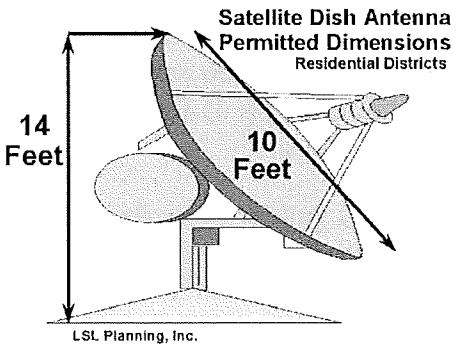
D. Recreational vehicle use shall be subject to and governed by Ordinance 1460 (Sections 150.20, 150.21 and 150.22 governing trailers).

E. Where physical features of a property, such as, but not limited to, immovable structures, or a tree with a diameter of four (4) inches or greater, prohibit a recreational vehicle from being parked in compliance with this Section, the owner may apply to the Zoning Administrator for a permit to park the recreational vehicle on the lot. This permit shall be granted, provided that the following requirements are met:

1. A twenty (20) foot setback shall be maintained from the recreational vehicle to the edge of the street pavement or curb.
2. Parking approval, if granted by the Zoning Administrator, shall be effective for up to one (1) year following the date of issuance. Additional approvals may be granted by the Zoning Administrator in accordance with this Section.

F. Storage or parking shall be limited to a lot or parcel of land upon which is located a principal use. The commercial lease of space for storage or parking of recreational vehicles for compensation shall not be permitted in a Residential District.

SECTION 3.20 SATELLITE DISH ANTENNAS



A. In any Non-residential District, the following restrictions shall apply:

1. The dish antenna shall be permitted in the side and rear yard or mounted on top of a building, and securely anchored.
2. The nearest part of the antenna shall be at least five (5) feet from any property line.
3. The height shall not exceed the height restrictions in the district in which the proposed device is to be located.
4. No portion of the dish antenna shall contain any name, message, symbol, or other graphic representation intended for the purpose of advertising.
5. A site plan shall be prepared and submitted to and approved by the Zoning Administrator for approval prior to issuance of a building permit. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.

B. In any Residential District, the following restrictions shall apply:

1. The dish antenna shall be permitted in the rear yard only.
2. The nearest part of the antenna shall be at least (5) feet from any property line.
3. The unit shall be securely anchored as determined by the Building Inspector.
4. The maximum height measured from the ground to the top edge of the dish shall be fourteen (14) feet.
5. The antenna shall be an unobtrusive color, as approved by the Zoning Administrator. Nor shall any portion of the dish antenna contain any name,

message, symbol, or other graphic representation intended for the purpose of advertising.

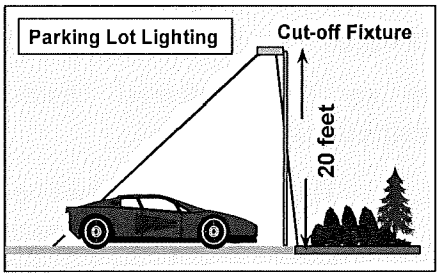
6. A site plan shall be submitted to and approved by the Zoning Administrator for approval prior to the issuance of a building permit. The site plan shall include the proposed location of the antenna and an elevation drawing showing the proposed height, color, and foundation details.

C. These regulations shall not apply to dish antennas that are one (1) meter (39.37 inches) or less in diameter in Residential Districts or two (2) meters or less in diameter in Non-residential Districts.

D. The Zoning Administrator shall have the authority to modify these restrictions to the minimum extent necessary to permit full reception and use of the dish antenna, if existing buildings, vegetation, topography, or other factors cause interference with reception or use.

SECTION 3.21 EXTERIOR LIGHTING

A. All lighting of a high intensity nature, intended to illuminate broad areas, shall be directed away from, and if necessary shall be shielded to prevent the shedding of light onto adjacent properties or roadways.



B. Light poles for parking lots in Non-residential Districts or multiple family and non-residential uses in Residential Districts shall be limited to twenty (20) feet in height.

C. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally, except for private lighting for single and two-family dwellings.

SECTION 3.22 HOME OCCUPATIONS

A. No person other than the resident occupants and up to two (2) other persons not residents of the home shall be engaged in the home occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home occupation shall be operated in its entirety within the principal dwelling or attached accessory building, but shall not, in any case, exceed a total floor area of twenty five percent (25%) of the total gross floor area of the dwelling unit.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) non-illuminated sign, not exceeding four (4) square feet in area. The permitted sign shall be located on the same property as the home occupation and shall not be permitted within any street right-of-way.

D. No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises.

E. Any traffic generated by such home occupation shall not be so great as to cause serious adverse effects within or upon the surrounding neighborhood. Parking areas for a home occupation shall be located off street and other than in a required yard.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises. (Amended 9/10/07)

G. Home occupations shall be approved by the Zoning Administrator, who shall issue an approval upon receipt of a letter from the applicant detailing information related to the requirements of this Section and stating their intent comply with such requirements.

SECTION 3.23 [RESERVED FOR FUTURE USE]

SECTION 3.24 NON-CONFORMING BUILDINGS AND USES

A. General Conditions

1. Except where specifically provided to the contrary, and subject to the provisions of this Section, any building, structure, or use existing and lawful on the effective date of this Ordinance or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued even though such use does not conform with the provisions of this Ordinance or any amendment thereto.
2. Any building, structure, or use shall be considered existing and lawful and for purposes of this Section to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained therefore, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion. With respect to legal non-conforming boat docks used on a seasonal basis, the seasonal removal and re-installation of the dock in the same location, using the configuration and size, will be considered a continuous use for that calendar year.
3. Any structures or uses which failed to conform to the previous Zoning Ordinance, were not permissible, non-conforming uses or structures thereunder, and which violate this Zoning Ordinance shall not be considered permissible non-conforming uses under this Ordinance but shall be considered impermissible non-conforming uses and subject to the enforcement provisions of this Ordinance.

B. Non-conforming Buildings or Structures

1. Non-conforming building or structures may only be extended, enlarged, altered, remodeled or modernized when the Planning Commission determines that the following conditions are met:
   a. The building or structure shall comply with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization.
   b. The enlargement or extension is limited to the same parcel the non-conforming building or structure was located on at the time of the adoption of this Ordinance.
   c. The enlargement or extension will not interfere with the use of other properties in the vicinity.
   d. The enlargement or extension shall not exceed fifty percent (50%) of the GFA of the original building or structure when it became non-conforming; except that the Planning Commission may permit a greater percentage where all yard setbacks for the district in which the building is located are met without need of a variance to such setback(s).
2. Any building or structure which is non-conforming by reason of parking or loading provisions and which thereafter provides additional parking and/or loading spaces shall not thereafter be permitted to use such additional spaces to meet requirements for any extension, enlargement, or change of use which requires additional parking and/or loading spaces.
3. Subject to the provisions of this Section, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.
4. All repairs and maintenance work required to keep a non-conforming building or structure in sound condition may be made but it shall not be structurally altered to permit the use of such building or structure beyond its natural life except for repairs necessary to maintain public safety.
5. Non-residential non-conforming buildings or structures damaged by fire, wind, explosion, Act of God, or public enemy may be rebuilt or restored if the cost thereof does not exceed seventy percent (70%) of the true cash value of the non-conforming building or structure prior to its damage or destruction. If the cost of restoration or repair would exceed seventy percent (70%) of the true cash value of the non-conforming building or structure prior to its damage or destruction, a substantial improvement or rebuilding shall only be permitted only if it complies with the requirements of this Ordinance.
6. Residential non-conforming dwellings damaged by fire, wind, explosion, Act of God, or public enemy may be rebuilt or restored provided that such reconstruction takes places within the confines of the original non-conforming footprint.
7. Permitted reconstruction of non-conforming buildings or structures shall begin within one (1) year of the date on which the structure was damaged. If such construction is not commenced and proceeding diligently at the end of one (1)

year, the building or structure may only be rebuilt or restored provided that all requirements of the District in which it is located are met, or the necessary variances obtained from the Zoning Board of Appeals.

8. Where a building or structure is non-conforming for setback by a distance equal to or less than one-half (1/2) of the distance required by this Ordinance the non-conforming setback be extended along the same plane as the existing non-conforming setback, provided that in so doing, the setback itself is not further reduced and all other required setbacks are met.

9. Demolition of Non-conforming Structures. Following the abatement or voluntary demolition or removal of a non-conforming structure, any new construction shall be in conformance with the zoning code, except in the following circumstances:

   a. A single-family dwelling which is non-conforming in setbacks or lot coverage may be voluntarily removed or demolished and replaced by a new single-family dwelling which has the same non-conforming setbacks or lot coverage as the prior non-conforming dwelling; provided, that the non-conformity is not increased, that the new structure meets the current maximum height requirement for the subject zoning district, that the new dwelling meets all current building code requirements, and that the non-conformity of the dwelling is certified by the Zoning Administrator.

   b. A detached accessory structure which is accessory to a single-family dwelling or duplex that has non-conforming setbacks may be demolished and a new accessory structure may be built in the same location; provided that the new accessory structure does not exceed fifteen (15) feet in height; or the height at which the structure was certified above fifteen (15) feet; and meets current building code requirements, and that the location of the non-conforming accessory structure is certified by the Zoning Administrator.

(Amended 11-14-11)

C. Non-conforming Uses

1. Except as noted in 2, below, the non-conforming use of a building, structure, land or premises shall not be:

   a. Re-established after it has been changed to a conforming use.

   b. Re-established after abandoned or discontinued for a continuous period of twelve (12) months. A non-conforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:

      (1) Utilities, such as water, gas and electricity to the property, have been disconnected;

      (2) The property, buildings, and grounds, have fallen into disrepair;

      (3) Signs or other indications of the existence of the non-conforming use have been removed;

(4) Removal of equipment or fixtures which are necessary for the operation of the non-conforming use;

(5) Other actions, which in the opinion of the Zoning Administrator, constitute an intent of the part of the property owner or lessee to abandon the non-conforming use.

(6) Seasonal removal and re-installation of a boat dock in the same location, using the same configuration and size, will be considered a continuous use for that calendar year.

2. The Zoning Administrator may permit a building, structure, land or premises used for a non-conforming use to be converted to a more conforming use which is less intensive or objectionable use, determined as follows:

   a. The building or premises may be changed to a use permitted by right in the same district in which the existing non-conforming use would be permitted, if the new use is required by the Zoning Ordinance to have the same, or less, parking and if the new use will be totally enclosed within a building.

   b. The use of the building or premises may be changed to another non-residential use which would be permitted by right in a more restrictive zoning district.

3. The area occupied by a non-conforming use shall not be enlarged, increased, or expanded to occupy a greater area of land unless the Planning Commission shall find that the following conditions are met:

   a. That all height, area, and/or parking and loading provisions of this Ordinance are met with respect to such enlargement, increase, or expansion.

   b. The enlargement, increase, or expansion is limited to the same parcel the non-conforming use was located on at the time of the adoption of this Ordinance.

   c. The enlargement, increase, or expansion will not interfere with the use of other properties in the vicinity or create undue traffic congestion or traffic or pedestrian circulation problems.

SECTION 3.25 DEMOLITION PERMITS

No buildings shall be razed until a permit has been obtained from the Zoning Administrator who may require a performance bond in such amount set by the Village Council. Such bond shall be conditioned on the applicant completing the razing within a reasonable period as prescribed in the permit and complying with such requirements as the Zoning Administrator may prescribe, including, but not limited to, filling excavations and proper termination of utility connections.

SECTION 3.26 PRIVATE STREETS

(Amended 11-13-00)

A. Purpose

The Village of Pentwater determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:

1. will not be detrimental to the public health, safety, or general welfare;
2. will not adversely affect the long-term development policies of the Village;
3. will be designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
4. will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Village.

B. Definitions

1. *Driveway* means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to fewer than three (3) lots or parcels.
2. *Frontage* means the continuous linear distance of that portion of a lot or parcel abutting upon a public or private street right-of-way. Frontage is to be measured at the minimum required front yard setback of the District in which the lot or parcel is located.
3. *Parcel* means a tract of land which can be legally described with certainty and is capable of being located by survey.
4. *Private street* means an undedicated, privately controlled and maintained right-of-way or other interest in land providing access to three (3) or more lots or parcels. The term street shall be synonymous with road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.
5. *Road Commission* means the Oceana County Road Commission.
6. *Safe and unimpeded route of travel* shall mean a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the Village.

C. Frontage and Access

1. Any three (3) or more contiguous lots not having frontage on a public street shall have frontage upon a private street.
2. All parcels utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for the District in which the parcel is located.
3. All private streets shall have direct access to a public street.
4. Any two (2) contiguous lots not having frontage on a public street shall be served by a driveway constructed within a minimum lot frontage of sixty-six (66) feet upon a public street.

D. Permits

1. No individual, association, corporation, or entity, either public or private, shall construct or extend a private street without first having obtained a private street permit from the Village Council.

2. The Building Inspector shall not issue building permits for construction of any building or structure on lots served solely by a private street until approval of a private street meeting the requirements of this Section has been received, and a safe and unimpeded route of travel is available to all construction sites.
3. A driveway permit for access to any public street shall be obtained from the Road Commission, Department of Public Works, or Michigan Department of Transportation, as applicable.
4. A Soil Erosion and Sedimentation Control permit shall be obtained from the Oceana County Drain Commissioner, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
5. All other required State of Michigan permits shall be obtained.
6. The Village Council may elect to have all design and construction plans reviewed by the Village's attorney, engineer, or planner prior to consideration of the application for the private street permit.

E. Applications for a private street permit shall contain the following:

1. A completed private street permit application, provided by the Village.
2. A detailed written description of the development to be served by the private street.
3. Seven (7) copies of a site plan, drawn to scale, prepared by a registered engineer, or other individual determined by the Village Council to be qualified, showing the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect.
4. A survey of the right-of-way by a registered land surveyor, together with lot dimensions and required setback lines for each parcel to be served by the private street.
5. The location of all public utility easements, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
6. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within one-hundred (100) feet thereof.
7. The location of any other buildings and structures located, or to be located, within one-hundred (100) feet of the private street right-of-way.

F. Design Requirements

1. Construction specifications and materials for newly established or reconstructed private streets.
   a. The specifications for surface and base materials, longitudinal grade, method of construction, and signs shall conform to the Road Commission standards for local paved or gravel roads, as applicable.

b. Private streets shall have a minimum width of twenty (20) feet of traveled surface. (Amended 9/10/07)

c. Private streets serving six (6) or fewer parcels may be constructed as a gravel road.

d. Private streets serving more than six (6) parcels shall be constructed as a paved road.

2. Length of private streets.

a. No private street shall extend for a distance of more than four thousand (4,000) feet in length from the nearest public street right-of-way from which access is gained, as measured along the centerline of the private street to the furthest point of any private street, except as otherwise noted, without a private street access complying with this Section being provided to another public street.

b. The maximum length of a proposed private street may be exceeded if the Village Council, after recommendation of the Planning Commission, finds that at least one (1) of the following conditions exists:

(1) That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.

(2) That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the Village Council prior to confirming this finding.

(3) That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of travel to the properties served by the private street. Such access shall be reviewed by the Fire Chief and the recommendation forwarded to the Planning Commission.

c. The Village Council, upon a finding that at least one (1) of the above conditions exists, shall establish the maximum length of the proposed private street.

3. Right-of-way/easement width.

a. All private streets constructed after the effective date of this amendment shall have a recorded permanent right-of-way and easement with a minimum width of at least sixty-six (66) feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.

b. Private streets existing on the effective date of this amendment whose right-of-way or easement width is less than sixty-six (66) feet need not provide

additional right-of-way or easement width, but such width shall not be further reduced.

c. All setbacks required by this Ordinance shall be measured from the easement right-of-way.

d. Minimum lot area and lot width requirements shall exclude any private street easements.

4. The layout of the private street and the intersections of the private street with either a public or private street shall assure clear vision, safe turning and travel in all directions at the posted speed limit, as determined by the Village Council. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than one-hundred and fifty (150) feet, as measured along the right-of-way line thereof.

5. Existing private streets:

a. A private street existing on the effective date of this Section may continue in existence and be maintained and used, though it may not comply with the provisions of this Section. Such private streets shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

b. Addition of lots or parcels of land to existing private streets.

(1) Any private street existing on the effective date of this Section equal to or exceeding two thousand (2,000) feet in length to which one (1) or more additional lots or parcels are created or otherwise permitted access, the entire length of the existing private street shall be upgraded to comply with the applicable requirements of subsection F.

(2) Any private street existing on the effective date of this Section which is less than two thousand (2,000) feet in length and to which one (1) or more additional lots or parcels are created or otherwise permitted access to the private street, then the entire length of the existing private street shall be constructed and maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, emergency vehicles in all weather conditions.

c. Existing portion of extended private streets.

(1) If a private street existing on the effective date of this Section is extended by the construction and use of an additional length of private street equaling or exceeding five hundred (500) feet, the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of subsection F.

(2) Private streets in existence at the time of the adoption of this amendment that are subsequently extended for a distance of less than five hundred (500) feet shall be constructed in the same

manner as the existing portion of the private street, provided that the entire private street shall be maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

G. Review standards; modification of certain requirements.

1. Prior to approving a private street permit application, the Village Council shall determine the following:
   a. The proposed private street will not be detrimental to the public health, safety, or general welfare.
   b. The proposed private street will not adversely affect the use of land.
   c. That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
   d. That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Village.
   e. The construction of the private street will conform to the requirements of this Section.
2. The Village Council may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
3. Upon application the Village Council may modify private street requirements of this Section after finding that all of the following conditions exist:
   a. Topography, soils, and/or other significant natural features physically prevent compliance with the requirements of this Section without substantial alteration of such features. Such features shall be clearly identified and described in the application of any such modification.
   b. The justification of any modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit.
   c. That no other reasonable private street design alternatives are available that would comply with the requirements of this Section.
   d. That the request for modification was reviewed by the Fire Chief or Village's Planner, or any other person or official designated by the Village Council.

H. Maintenance and Repairs

1. Private streets shall be maintained in a manner that complies with the provisions of this Section.
2. All driveways and private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Village, and that they assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.

4. Private street maintenance or restrictive covenant agreements.

   a. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Village Council with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Village Council which shall provide for and assure that the private street shall be regularly maintained, repaired, and cleared of snow so as to assure that the private street provides a safe and unimpeded route of travel at all times.

   b. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the Village Council prior to the issuance of the permit.

I. Performance Guarantee

The Village Council may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of the Zoning Act and Section 19.05 of this Ordinance.

J. Inspections/Certificate of Compliance

1. Upon completion of construction of the private street, the Village's Engineer shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this Ordinance.

2. The applicant(s), at the applicant(s)'s expense, shall provide the Village with a set of as built drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the Road Commission.

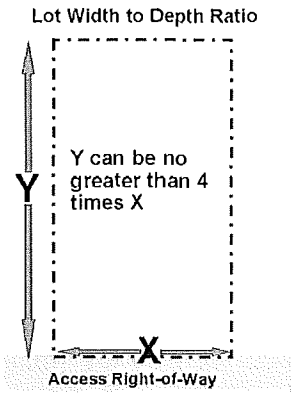
3. If the completed private street does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the non-compliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in Section 19.03.

K. Fees for the permits required hereunder shall be set by the Village Council by resolution. Additionally, the Village Council may require that the applicant(s) provide sufficient funds to cover the costs of having the Village's attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections.

L. The applicant(s)/owner(s) of the private street agree that by applying for or securing a permit to construct the private street that they shall indemnify and will hold the Village harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, and replace the private street.

SECTION 3.27 MAXIMUM WIDTH TO DEPTH RATIO

A. No lot shall be created with a lot depth that exceeds four (4) times its width, except for lots or parcels that have more than one half (1/2) of their street frontage on a cul-de-sac. For purposes of this Section, the beginning points of a cul-de-sac shall be deemed to be the intersections of the radius of the cul-de-sac with the right-of-way lines of the street connected to the cul-de-sac.



B. In the case of an unimproved corner lot or corner parcel, the depth of a lot or parcel shall be measured midway between the side lot lines and from the front lot line to the rear lot line along the dimension of the lot comprising the greatest distance.

C. The Village Council, after recommendation by the Planning Commission, may permit the creation of a lot or parcel to be used for the construction of a building which does not comply with this Section. In determining whether to grant such approval, the Village Council shall first find that the greater depth is necessitated by conditions of the land in question, such as topography, road access, soils, wetlands, or floodplain, and that creation or use of such lot will not conflict with other ordinances and regulations, unless an appropriate variance is received from such other Ordinances or regulations.

SECTION 3.28 SITE CONDOMINIUMS

A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 591 of 1996, as amended.

B. A site condominium unit shall be treated as a separate lot or parcel and may have such buildings constructed thereon and such uses conducted thereon as allowed in such zoning district provided such unit meets the District Regulations for the zoning district in which it is located.

C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with Chapter 16.

SECTION 3.29 KEEPING OF ANIMALS

A. The keeping of domestic or farm animals shall be considered customary to, and commonly associated with, the operation of the Permitted Uses or Special Land Uses, subject to the requirements of this Section.

B. No more than a combined total of six (6) adult (six (6) months of age or older) cats, dogs or other similar household pets shall be kept or housed in a dwelling unit.

C. Any other provision of this Ordinance notwithstanding, the keeping, housing, raising, or use of medical care for fowl or animals other than house pets of an occupant of the premises, is subject to the following provisions:

1. Any pen or building or structure housing these animals shall be a minimum of fifty (50) feet from any property line.
2. On lots of one-half (½) acre or less: raising and keeping fowl and/or rabbits and/or other small animals for pets, not to exceed three (3) per family;
3. On lots of greater than one-half (½) acre, but less than two (2) acres: raising and keeping fowl and/or rabbits and/or other small animals commonly not exceeding a total of twelve (12) such animals in any combination;
4. On lots of greater than two (2) acres, but less than five (5) acres, the uses permitted by paragraph 2, above; and one (1) cow, or one (1) pig for each acre, or part thereof, up to a maximum of five (5) such animals, in any combination. For lots greater than five (5) acres, no limit, except as may be required as an intensive livestock operation.
5. One (1) horse shall be permitted on a lot of at least two (2) acres. Lots of greater than two (2) acres, but less than five (5) acres may permit one (1) additional horse. For lots greater than five (5) acres no limitation is provided on the number of horses permitted.
6. A minimum of five (5) acres shall be required for a riding stable. Animal clinics veterinary hospitals need not provide more area than required in the District in which it is permitted.

D. Where animals other than house pets of the owner or occupant of the premises are kept or allowed outside, a fence of such construction as to keep said animals from leaving the premises at will shall be provided and regularly maintained.

SECTION 3.30 SWIMMING POOLS

A. Pools used for swimming or bathing shall be in conformity with the requirements of this Section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.

B. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a building permit has been obtained.

C. The outside edge of the pool wall shall not be located closer than ten (10) feet from any lot line or the boundaries of any 100-year flood plain. Swimming pools shall not be located in the front yard; provided, however, swimming pools may be located in the front yard of a waterfront lot, but shall not be located closer than ten (10) feet of the ordinary high water mark. An above-ground pool shall be located no closer than twenty-five (25) feet from the ordinary high water mark. (Amended 9/10/07)

D. Each pool shall be enclosed by a minimum five (5) foot high fence or wall, or other structure or device, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.

E. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 3.31 ACCESS TO WATERS, USE OF WATERFRONT LANDS, DOCKS AND PRIVATE BOAT LAUNCHES

The following restrictions are intended to limit the number of users of lands containing lake, river or stream frontage in order to preserve the quality of the waterfront lands, shorelines and waters, to promote safety, and to preserve the quality of recreational use of all waters within the Village.

A. Waterfront Access Parcel. To use or access the lake, river or stream frontage from over or across a parcel of land or a lot, a parcel or lot must be a "waterfront access parcel" as provided in this section. To be a waterfront access parcel, a parcel or lot shall meet each of the following requirements:

1. A waterfront access parcel shall have, for each dwelling unit using or accessing the lake, river or stream frontage, at least sixty-six (66) feet of lake frontage, or at least two hundred (200) feet of river or stream frontage, as measured along the ordinary high water mark of the lake, river or stream. For example, a multiple family building with four (4) dwelling units would require two hundred and sixty-four (264) feet of lake frontage. Non-residential uses must have at least 75 feet of lake frontage, or 200 feet of river or stream frontage, as applicable, unless a greater amount is specified elsewhere in this Ordinance.

2. The waterfront access parcel must be in compliance with the requirements of the district in which it is located, including lot width and setbacks as measured on the water side of the lot. Each parcel must also have, in addition to any district regulations, at least 5,000 square feet of land area for each non-frontage dwelling unit using the waterfront access parcel. No front yard setback (water-side) shall be less than 30 feet from the lot line or high water mark, whichever is more restrictive. If the waterfront access parcel contains an artificial or man-made canal, channel or other alteration to the shoreline, that man-made area shall not be included in the calculation of required frontage, such distance to be measured between side lot lines; provided, however, any man-made area in existence at the time this ordinance becomes effective shall, for purposes of this Section 3.31.A, be considered a natural, not a man-made or artificial area.

3. Buildings, structures, parking lots and other impervious surfaces shall not cover more than 50% of the area of the waterfront access parcel.

4. At least 50% of the street frontage shall be open (unobstructed by buildings or other man-made structures) yard area between the street and the waterfront. The Planning Commission may reduce this requirement when architectural, terrain or other features provide sufficient means to retain desires water views.

B. Interests Covered by this Section. The restrictions of this Section shall apply to all lots and parcels on or abutting any lake, river, or stream in all Districts, regardless of whether access to the lake, river, or stream waters shall be by easement, park, fractional ownership, fee ownership, condominium arrangement, license, lease or other form of ownership.

C. Private Docks, Launches and Accessory Buildings on Waterfront Lots. Private boat docks on waterfront lots shall comply with all applicable state and federal regulations and shall only be permitted subject to the following provisions:

1. One (1) private boat dock shall be permitted for each waterfront access parcel. For waterfront access parcels exceeding fifty (50) feet in width, one (1) additional boat dock shall be permitted for each full fifty (50) feet of lot width exceeding the first fifty (50) feet along the lake or other body of water.

2. Dock design, including length, shall not interfere with navigation or other riparian rights of waterfront owners nor shall it violate MCL 324.80163.

3. Boat docks and boat slips shall be used only by persons residing on the premises or their guests, or with respect to marinas or commercial businesses, by patrons of the premises, and shall not be leased, rented, or otherwise made available for compensation, unless such dock is approved as a marina, subject to the requirements of this Ordinance and other state and federal regulations.

4. No dock for boat use shall be located, used or placed within seven (7) feet of the side lot lines of a lot or parcel as extended to the center of the lake or body of water, except that offshore marine storage devices may be located within two (2) feet of a side lot line as so extended to the center or thread-line of the lake or body of water, as applicable in determining ownership of the bottomland or lake bed.

5. No watercraft shall be launched, stored, moored or docked within two (2) feet of the side lot lines of a property as extended to the center of the lake or body of water.

6. The maximum number of boats or vessels anchored, moored or stored at or on a dock shall not exceed the following:

   a. Three, for a principal residential use or other permitted dock;

   b. For common docks as described in subpart 7 of this section or a dock being used by more than one dwelling in accordance with this section, three for each dwelling, but not to exceed nine;

   c. For purposes of determining the number of vessels for this subpart, a personal watercraft shall be counted as one-half of a vessel.

7. A common dock may be installed without regard to side setbacks between two (2) or more adjoining waterfront access parcels constituting separate frontages or multiple unit developments, in cases where the respective waterfront access parcel owners have submitted a planned common dock plan which meets each of the following requirements:

   a. the plan is approved by all waterfront access parcel owners;

b. the dock will not exceed the maximum number of boats permitted to be docked;

c. and when considering the waterfront access parcel as a whole, shall not violate the requirements of this section.

D. Existing boat docks and accessory buildings on waterfront lots that do not contain a principal building or use. Waterfront lots or parcels that contain a dock and/or an accessory building as of the effective date of this ordinance shall be permitted as non-conforming structures. Such docks and/or accessory buildings may be maintained, repaired and/or replaced so as to keep the non-conforming dock, building or structure in a sound condition, subject to the following requirements:

1. The owner shall obtain a permit for the dock, or a permit for an accessory building or other non-conforming structure in the same manner as a dock permit, as provided in part 7 above. The owner shall submit sufficient proof, to the satisfaction of the Zoning Administrator, that the dock, accessory building or other non-conforming structure was in existence prior to the effective date of this ordinance.

2. The dock, accessory building or structure shall be reconstructed on approximately the same footprint and location as the original, except that if any part of the original footprint encroached onto an adjacent parcel(s) under separate ownership, the reconstructed or re-installed dock, building or structure shall be located entirely on the applicant's parcel of land.

3. The reconstructed dock, accessory building or structure shall not be increased in total area or size from the original.

4. The reconstruction, revision or re-installation and subsequent use of the non-conforming dock, building or structure shall not increase adverse effects on adjacent or nearby lands or the uses thereof.

Any such reconstruction or replacement of a dock, accessory building or structure under this part 8 shall be commenced within a period of one year after the removal, discontinuance of use or abandonment of such dock, building or structure. Once commenced, such reconstruction or replacement shall be diligently pursued to completion.

E. Waterfront Accessory Lot. A Waterfront Accessory Lot may contain an accessory building or a private boat launch, or both, even if such Waterfront Accessory Lot does not contain a principal building or use, provided the Waterfront Accessory Lot shall satisfy each of the following requirements:

1. Second Lot. The owner of the Waterfront Accessory Lot also owns a second lot which contains a principal dwelling or use, and one or both of the lots is a waterfront access parcel as provided in this section.

2. Minimum Distance between Lots. The two lots are located within 300 feet of each other, measured at their nearest points.

3. Restrictive Covenant. A restrictive covenant, approved by the Village Attorney, shall be recorded prohibiting either lot to be sold separately from the other lot. This provision shall be enforceable by the Village and any violation shall be a violation of this zoning ordinance.

4. Accessory Building Regulations. The Waterfront Accessory Lot shall not contain more than one accessory building and no accessory building located on the Waterfront Accessory Lot shall exceed 200 square feet in size or 12 feet in height. The accessory building shall comply with all laws, regulations and restrictions, shall not contain restroom facilities and shall not be used for residential or living quarters. With respect to setbacks, the accessory building shall comply with all required setbacks, and with respect to any waterfront yard, shall not be located closer than the minimum front yard setback for a principal building in that district.

5. Boat Launch Regulations. Any boat launch on a Waterfront Accessory Lot shall only be for private use of the persons residing on the premises (either lot) or their guests and shall not be leased, rented or otherwise made available for compensation unless the boat launch receives a special land use permit in compliance with Section 15.04.N.

6. Parking Regulations. No more than four motor vehicles, with or without trailers, may be parked on a Waterfront Accessory Lot at any time. Any vehicle must be parked within an approved parking space or driveway.

F. Except as provided in subparts D and E above, a dock, accessory building or boat launch may only be permitted on a waterfront access parcel if a main building or principal use exists on such lot.

G. Waterfront Lots.

1. Waterfront Lots. Waterfront lots shall be required to maintain a vegetative strip along the water at least five (5) feet in width consisting of naturally occurring vegetation, such as wild grasses and reeds, unless the Zoning Administrator finds that adjacent water bodies will not be substantially degraded by the absence of a vegetative strip in preventing or limiting the cumulative effects of harmful pesticides, herbicides, fertilizers, fuel, sedimentation or other natural or man-made environmental contaminants on water quality.

2. Floodlands and Steep Banks. No dwelling or other principal building shall be constructed or placed on lands which are subject to flooding or on banks where a minimum of four (4) feet between the finished grade level and high ground water cannot be met. Land may be filled to meet the minimum requirement of four (4) feet between the finished grade level and high ground water only under the following conditions:

   a. No material is allowed to enter the water either by erosion or mechanical means.

   b. Fill material is of a pervious material such as gravel or sand.

   c. Any and all permits have been acquired as required by the State of Michigan and the rules and regulations of the Department of Natural Resources and

the Department of Environmental Quality of the State of Michigan, provided that it shall be unlawful to alter the shoreline of any lake, river or creek in the Village by soil removal or fill.

d. All filling or grading work shall be accomplished so as not to alter the natural drainage of adjoining land.

H. Modifications. The Planning Commission may authorize modifications to the requirements of this Section 3.31 in cases where unusual topography, past practices or land uses, safety considerations or other similar reasons dictate that a modification of the literal requirements will improve the quality of the development or use for the applicant and the surrounding properties and uses.

SECTION 3.32 STORAGE AND REPAIR OF VEHICLES

The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any Residential District, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:

A. Procedures or projects which require the vehicle to be immobile or inoperable in excess of sixty (60) days within any twelve (12) month period shall be carried out within an enclosed building.

B. Inoperable vehicles and vehicle parts shall be stored inside a building, except for one (1) such vehicle which may be stored in the rear yard in a location not plainly visible from the street or adjoining properties.

SECTION 3.33 ALTERATIONS TO GRADE

(Amended 9/10/07)

Excavation, filling or any combination thereof, or any leveling to a smooth, horizontal or sloping surface shall be permitted, subject to the following limitations:

A. The natural grade of any site shall not be altered in such a way that the finished grade has an adverse effect on neighboring properties. Adverse effects shall be determined by the Zoning Administrator, or if the Zoning Administrator elects to do so, the decision may be referred to the Planning Commission for a determination. In evaluating whether negative effects are present, the impact of storm water runoff and drainage, the visual impact of the grading change and other potential adverse effect may be considered. The elevation of a property shall be the same as neighboring properties or consistent with the natural slope of the area, unless there are practical difficulties or unusual circumstances that warrant a change elevation.

B. Final grades shall be harmonious with the surrounding grades. No final grade shall create an area that will fill with water, except areas that are approved storm water management facilities.

SECTION 3.34 WIND ENERGY SYSTEMS, ON SITE

(Amended 12/8/08)

A. An On Site Wind Energy System shall be considered an Accessory Use in all Residential zoning districts only. On Site Wind Energy Systems are prohibited in all commercial and industrial zoning districts.

B. **Setbacks**. The distance between an On Site Use wind energy system and the owner's property lines shall be at least the height of the wind energy system tower including the top of the blade in its vertical position. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten (10) feet to the owner's property lines.

C. **Sound Pressure Level**. Sound pressure level shall not exceed 45 dB (A) at adjacent property lines to the wind energy system. The sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 45 dB (A), the standard shall be ambient dB(A) plus 5 dB(A).

D. **Sound Pressure Mediation**. Should an aggrieved property owner call into question the sound pressure level of a wind tower, the aggrieved property owner shall follow the following procedure:

1. Notify the Village in writing regarding concerns about sound pressure and ask the Village to perform a sound pressure test at the aggrieved owner's property line.
2. The Village will request the aggrieved property owner deposit funds in an amount sufficient to pay for a sound measurement test according to the specifications of 15.04BB.
3. If the sound test indicates that the sound pressure level is within ordinance guidelines, the Village will use the deposit to pay for the sound pressure test.
4. If the wind tower owner is in violation of the ordinance sound standards, the tower owner shall reimburse the Village for the sound pressure test and take immediate action to bring the wind tower into compliance which may include ceasing operation of the wind turbine until ordinance violations are corrected. The Village will refund the deposit to the aggrieved property owner.

E. **Ground Clearance**. The minimum vertical blade tip clearance with the ground shall be 20 feet.

F. **Construction Codes and Other Standards**. On Site Use wind energy systems including towers and any foundations shall comply with all applicable state construction and electrical codes and local building permit requirements. On Site Use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 *et seq.*), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 *et seq.*), and airport overlay zone regulations.

G. **Safety**. An On Site Use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have an automatic transfer switch. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly marked with brightly colored

tubing to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

H. **Visual Impact**. Visual impact will be limited by using muted colors, industry standards that minimize visibility, and by using turbines that are consistent in the appearance. No advertising of any kind shall be allowed on the wind turbine with the exception of the manufacturer's name or logo.

I. **Abandonment**. If an On Site Wind Energy Conversion system has not been used for the output of electrical energy for twelve (12) consecutive months, or if it poses an immediate risk to health and safety due to lack of maintenance, poor structural integrity, noise, or vibration it shall be deemed abandoned and shall be disconnected from any electrical grid, dismantled, including the base and any foundations, removed from the property, and the land shall be restored by the project owner and/or other property owner, at the sole expense of such owner.

J. **Anemometers** (up to 66 feet in height)

1. Anemometers or other SCADA towers shall also be considered Accessory uses in all Residential zoning districts.
2. The distance between an anemometer tower and the owner's property lines shall be at least 1-½ times the height of the tower.
3. No part of the anemometer, including guy wire anchors, may extend closer than ten (10) feet to the owner's property lines.
4. If a tower is supported by guy wires, the wires shall be clearly marked with brightly colored tubing to a height of at least six feet above the guy wire anchors.

K. **Applications**. Applications for On Site wind energy systems and anemometers less than 66 feet in height shall include:

1. A site plan, drawn to scale, indicating property lines, dimension and location of all structures, and structures within 100 feet of the applicant's property lines.
2. Tower height and turbine blade length.
3. Manufacturer's modeling and analysis confirming that the wind energy system will not exceed the maximum permitted sound pressure levels.
4. The location of the wind turbine, anemometer, guy wires, and/or related accessory structures.
5. Documentation that construction code, electrical code, tower interconnection (if applicable), airport overlay zoning, and safety requirements have been met.
6. If applicable, a copy of that portion of the applicant's lease with the landowner granting authority to install a MET tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment.

SECTION 3.35 POLES AND TOWERS

(Amended 12/8/08)

Freestanding radio, television or microwave antennas or towers, including wind powered electric generators are permitted in all zoning districts as Accessory Uses provided the following provisions are satisfied:

1. The pole or tower shall be permanently secured to a stable foundation.

2. No portion of the pole or tower shall conduct or display any advertising, message or other graphic representation other than the manufacturer's name.

3. No freestanding pole or tower shall exceed a height of 50 feet above grade, or have any other dimension exceeding ten feet, including its mounting structure, except that freestanding poles or towers exceeding such height or other dimension may be permitted by the Planning Commission as a special land use under Chapter 15.

4. A pole or tower shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the depth of the required rear or side yard setback, whichever is the greater.

5. A tower or pole may be mounted on the roof of a principal or accessory building, provided it shall not exceed a height of fifty (50) feet, including the height of the building as measured from its foundation.

6. All antennas must be grounded to protect against damage from lightning.

7. A pole or tower shall not be so located or constructed as to have a serious adverse effect on adjacent or nearby land uses.

8. Poles and towers for commercial communications services, including cellular telephone antennas and towers, shall be approved only as special land uses under the terms of Chapter 15.

9. Where the effect of any of the provisions of this section would be to prevent or preclude the operation of amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and licensed by the Federal Communications Commission, such amateur radio antenna may be approved by the Planning Commission as a special land use if it is reasonably demonstrated that the application of any of the provisions of this section would be to preclude or prevent the operation of such amateur radio antenna. In granting any such special land use for an amateur radio antenna, the Planning Commission may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable accommodation of amateur radio communications and such conditions, if any, shall be no more than the minimum practicable regulations necessary to accomplish the Village's legitimate purposes in regulating such amateur radio antennas.

SECTION 3.36 [Reserved for Regulations of Medical Marihuana Facilities and Recreational Marihuana Establishments]

SECTION 3.37. ACCESSORY USE SOLAR ENERGY SYSTEMS

A. **Applicability**. This section applies to any system of accessory use solar energy collector systems within the Village.

B. **Exemption**. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and a height of less than five (5) feet above the ground. Nothing in this section shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement.

C. **General Requirements.**

1. **Permitted Use.** Accessory Use Solar Energy Systems are a permitted use in all zoning districts.

2. **Permit Required**. No accessory use solar energy system shall be installed or operated except in compliance with this section. A zoning permit shall be obtained from the Zoning Administrator prior to the installation of a ground-mounted solar energy system. A zoning permit shall not be required for building mounted systems that remain parallel to the roofline. All accessory use solar energy systems shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications.

3. **Glare and Reflection.** The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roads or private roads.

4. **Installation.**
   a. A solar energy collector shall be permanently and safely attached to the ground or structure. Solar energy collectors, and their installation and use, shall comply with building codes and other applicable village and state requirements.
   b. Solar energy systems shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy shall be submitted to the Village prior to installation.

5. **Power Lines.** On-site power lines between solar panels and inverters shall be placed underground.

D. **Abandonment and Removal**. A solar energy system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned. Following the abandonment of a solar energy collector system, the following standards are applicable:
   a. The responsible party may reinstate the system up to six (6) months after the system is declared abandoned if the Village is given substantial evidence of the responsible party's intent to maintain and reinstate the operation of that system.
   b. The responsible party shall remove all equipment and facilities and restore the lot to its condition prior to the development of the system within one (l) year of abandonment.

D. **Building Mounted Solar Energy Collectors**. These systems may be established as accessory uses to principal uses in all zoning districts subject to the following conditions.

Maximum Height. Building-mounted solar energy collectors shall be attached directly to the building and shall not exceed ten (10) feet above the finished roofline.

1. **Obstruction.** Building-mounted solar energy collectors shall not obstruct solar access to adjacent properties.

E. **Ground Mounted Solar Energy Collectors.** These systems may be established as accessory uses to principal uses in all zoning districts subject to the following conditions.

1. **Rear and Side Yards.** A ground mounted system may be located in the rear yard or the side yard and shall be subject to the setbacks for accessory buildings.

2. **Front Yard.** Except for waterfront lots, the unit may be located in the front yard only if located not less than one hundred fifty (150) feet from the front lot line.

3. **Waterfront.** Any ground mounted system shall not be located between the principal building and any lake, river or stream.

4. **Obstruction.** Ground-mounted solar energy collectors shall not obstruct solar access to adjacent properties.

5. **Vegetation.** All vegetation underneath solar energy infrastructure shall be properly maintained as to not block access to solar collectors.

6. **Maximum Number**. There shall be no more than one (l) ground-mounted solar energy collector per principal building on a lot.

7. **Maximum Size.** There shall be no more than one percent (1%) of the lot area, up to one thousand five hundred (l.500) square feet of collector panels on a ground-mounted solar energy collector system.

8. **Maximum Height.** The maximum height shall be sixteen (16) feet, measured from the natural grade below the unit to the highest point at full tilt.

9. **Minimum Lot Area.** One (l) acre shall be the minimum lot area to establish a ground-mounted solar energy collector system.

10. **Screening.** Screening shall be required in cases where a ground-mounted solar energy collector impacts views from adjacent residential properties. Screening methods may include the use of material, colors, textures, screening walls, and landscaping that will blend the unit into the natural setting and existing environment.

CHAPTER 4
R-R - RURAL RESIDENTIAL DISTRICT

SECTION 4.01 INTENT

Land use decisions within this District will support the continued use of land for large lot residential and agricultural purposes. Design standards will promote preservation through low density development and the use of cluster, or open space, development. It is the purpose of this District to promote the orderly development of Pentwater and to preserve the economic value of residential, agricultural, and open lands. All uses permitted within this District shall be conducted with due consideration for the potential effects which may result from authorized agricultural uses, in accordance with Public Act 94 of 1995, the Michigan Right to Farm Act, as amended.

SECTION 4.02 PERMITTED USES

Land and/or buildings in this District may be used for the following purposes by right:

A. Farms, including farm houses, related accessory buildings, and roadside stands.

B. Single-family detached dwellings, including home occupations in accordance with the provisions of Section 3.22.

C. Greenhouses, orchards, and nurseries not selling retail goods on the premises. A residence may also be located on the same property.

D. State-licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including adult foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

E. Reserved for future use.

F. Parks, community buildings, and recreational facilities operated by a public, institutional, or private/non-profit organization.

G. Cemeteries.

H. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 4.03 SPECIAL LAND USES

Land and/or buildings in the R-R District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

A. Public or private campgrounds,

B. Riding stables, country clubs and golf courses and other similar uses, including related uses, such as recreational facilities, snack bars, small retail shops selling goods or other similar uses directly related or integral to the principal use.

C. Intensive livestock operations.

D. Commercial recreation parks and recreation centers.

E. Bed and breakfast establishments.

F. Kennels and veterinary hospitals. A residence may also be located on the same property.

G. Utility and public service buildings, without outside storage yards or materials, but not including essential public services such as poles, wires, and underground utility systems.

H. Radio, television, or telephone transmission towers, including towers in excess of fifty (50) feet in height for commercial wireless telecommunication services.

I. Public or private non-profit schools and churches.

J. Lodges and private clubs.

K. Commercial removal and processing of soil, sand, gravel, or other minerals.

L. A child care center, group day care home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

M. Utility Grid Wind Energy Systems (Amended 12/8/08)

SECTION 4.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17.

C. Signs are permitted in accordance with the requirements of Chapter 17.

D. Setbacks, height, area, and lot dimensions are required as noted below:

R-R District Regulations	Residential Uses	Non-Residential Uses
Minimum lot area	10 acres	2 acres
Minimum lot width	330 feet	110 feet
Maximum height	35 feet (see Section 2.03, Building Height)	
Front yard setback	75 feet	
Side yard setback	25 feet	
Rear yard setback	25 feet	
Minimum floor area	750 square feet UFA on the first floor	N/A

CHAPTER 5
R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION 5.01 INTENT

This District is intended to provide a low-density, single-family residential living environment and to foster stable, high quality neighborhoods. At the same time the regulations for this district recognize the need to preserve existing housing stock, allow the full development of older subdivisions, and provide housing that is affordable for the present and future residents of Pentwater. Certain non-residential uses are allowed to further the creation of stable residential neighborhoods.

SECTION 5.02 PERMITTED USES

Land and/or buildings in the R-1 District may be used for the following purposes by right:

A. Single-family detached dwellings, including home occupations in accordance with the provisions of Section 3.22.

B. State-licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including adult foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

C. Reserved for future use.

D. Parks, community buildings, and recreational facilities operated by a public, institutional, or private/non-profit organization.

E. Farms, including farm houses, and related accessory buildings.

F. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 5.03 SPECIAL LAND USES

Land and/or buildings in the R-1 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

A. Public or private campgrounds.

B. Riding stables, country clubs and golf courses and other similar uses, including related uses, such as recreational facilities, snack bars, small retail shops selling goods or other similar uses directly related or integral to the principal use.

C. Intensive livestock operations.

D. Commercial recreation parks and recreation centers.

E. Bed and breakfast establishments.

F. Nursing homes, homes for the aged, those State-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and those facilities licensed for

the care and treatment of persons released from or assigned to adult correctional facilities. (Amended 5-12-08)

G. Private non-profit schools and churches.

H. Lodges and private clubs.

I. Utility and public service buildings, without outside storage yards or materials, but not including essential public services such as poles, wires, and underground utility systems.

J. Accessory Food Service as part of a Bed and Breakfast establishment (Amended 5-12-08)

K. A child care center, group day care home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

SECTION 5.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. Setbacks, height, area, and lot dimensions are required as noted below:

R-1 District Regulations	Residential Uses	Non-Residential Uses
Minimum lot area	2 acres	
Minimum lot width	165 feet	110 feet
Maximum height	35 feet (see Section 2.03, Building Height)	
Front yard setback	30 feet	
Side yard setback	10 feet	25 feet
Rear yard setback	30 feet	
Minimum floor area	750 square feet UFA on the first floor	N/A
Maximum lot coverage	30%	

CHAPTER 6
R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION 6.01 INTENT

This District is intended to provide a low-density, single and two-family residential living environment and to foster stable, high quality neighborhoods while providing for additional variety in housing opportunities and choices. The regulations for this district also recognize the need to preserve existing housing stock, allow the full development of older subdivisions, and provide housing that is affordable for the present and future residents of Pentwater. Certain non-residential uses are allowed to further the creation of stable residential neighborhoods.

SECTION 6.02 PERMITTED USES

Land and/or buildings in the R-2 District may be used for the following purposes by right:

A. Single-family detached dwellings, including home occupations in accordance with the provisions of Section 3.22.

B. State-licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including adult foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

C. Reserved for future use.

D. Parks, community buildings, and recreational facilities operated by a public, institutional, or private/non-profit organization.

E. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 6.03 SPECIAL LAND USES

Land and/or buildings in the R-2 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

A. Two-family dwellings, including conversions of single-family detached dwellings to two-family dwellings.

B. Commercial recreation parks and recreation centers.

C. Bed and breakfast establishments.

D. Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.

E. Nursing homes, homes for the aged, those State-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities. (Amended 5-12-08)

F. Public or private non-profit schools, and churches.

G. Lodges and private clubs.

H. A child care center, group day care home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

I. Utility and public service buildings, without outside storage yards or materials, but not including essential public services such as poles, wires, and underground utility systems.

J. Accessory Food Service as part of a Bed and Breakfast establishment.

SECTION 6.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. Unless not required by any other Ordinance, sidewalks shall be constructed on all sides of the property abutting a public street. The Planning Commission may waive the requirement for a sidewalk when, in the opinion of the Commission, no purpose would be served by the sidewalk.

E. Setbacks, height, area, and lot dimensions are required as noted below: (Amended 11-13-00)

R-2 District Regulations	Residential Buildings		Non-Residential Buildings
	Single	Two Family	
Minimum lot area	8,000 square feet	15,000 square feet	15,000 square feet
Minimum lot width	66 feet	120 feet	120 feet
Maximum height	35 feet (See Section 2.03, Building Height)		
Front yard setback	17 feet – but 30 feet for the front yard (the water side) of a waterfront lot (Amended 4-12-21)		
Side yard setback	6 feet		15 feet
Rear yard setback	30 feet – but 17 feet for the rear yard (the road side) of a waterfront lot (Amended 4-12-21)		
Minimum floor area	750 square feet on the first floor		N/A
Maximum lot coverage	50%		

CHAPTER 7
R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT

(Amended 11-14-11; and 4-12-21)

SECTION 7.01 INTENT

This District is intended to provide additional variety in housing opportunities and choices. The R-3 District should also provide high-quality residential dwellings. The regulations for this district recognize the need to provide affordable housing opportunities. Non-residential uses are only allowed to the extent that they serve to further this end.

SECTION 7.02 PERMITTED USES (Amended 11-14-11)

Land and/or buildings in the R-3 District may be used for the following purposes by right:

A. Two-family dwellings, including home occupations in accordance with the provisions of Section 3.22, and including conversions of single-family detached dwellings to two-family dwellings.

B. State-licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including adult foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

C. Multiple family dwellings. (Amended 11-14-11)

D. Parks, community buildings, and recreational facilities operated by a public, institutional, or private/non-profit organization.

E. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 7.03 SPECIAL LAND USES

Land and/or buildings in the R-3 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

A. Commercial recreation parks and recreation centers.

B. Bed and breakfast establishments.

C. Public or private non-profit schools, and churches.

D. Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.

E. Nursing homes, homes for the aged, those State-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities. (Amended 5-12-08)

F. Lodges and private clubs.

G. Reserved for future use.

H. A child care center, group day care home and other care home licensed under Act 218 of the Public Acts of 1979 or Act 116 of the Public Acts of 1973 which is authorized to serve up to but not more than six (6) persons but is not operated in a structure constructed for residential purposes, or a group home or other care home licensed under the foregoing acts which is authorized to serve more than six (6) persons but not more than twelve (12) persons; provided, however, this section shall not include facilities licensed for the care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

I. Utility and public service buildings, without outside storage yards or materials, but not including essential public services such as poles, wires, and underground utility systems

J. Accessory Food Service as part of a Bed and Breakfast establishment. (Amended 5-12-08)

SECTION 7.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. Unless not required by any other Ordinance, sidewalks shall be constructed on all sides of the property abutting a public street. The Planning Commission may waive the requirement for a sidewalk when, in the opinion of the Commission, no purpose would be served by the sidewalk.

E. Setbacks, height, area, and lot dimensions are required as noted below. (Amended 11-13-00) (Amended 11-14-11)

R-3 District Regulations	Residential Dwellings, Except Multiple Family Dwellings
Minimum lot area	6,000 square feet per dwelling unit
Minimum lot width	60 feet
Maximum height	35 feet (see Section 2.03, Building Height)
Front yard setback	17 feet – but 30 feet for the front yard (the water side) of a waterfront lot (Amended 4-12-21)
Side yard setback	6 feet (each side)
Rear yard setback	30 feet – but 17 feet for the rear yard (the road side) of a waterfront lot (Amended 4-12-21)
Minimum floor area	750 square feet UFA on the first floor
Maximum lot coverage	50%

R-3 District Regulations	Multiple Family Dwellings
Minimum lot area	10,500 square feet
Maximum density	8 dwelling units per acre[1]
Maximum height	35 feet (see Section 2.03, Building Height)
Front yard setback	30 feet, or equal to the height of the main building, whichever is greater.
Side yard setback	15 feet (each side), or equal to the height of the main building, whichever is greater.
Rear yard setback	30 feet, or equal to the height of the main building, whichever is greater.
Minimum floor area	600 square feet UFA per unit plus 400 square feet per bedroom for each bedroom over 2
Distance between buildings	25 feet, or equal to the height of the taller building, whichever is greater.
Maximum building length	120 feet[2]
Maximum lot coverage	50%

1. The area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or abutting roads.
2. The Planning Commission may permit a longer building length when architectural features provide sufficient relief.

R-3 District Regulations	Non-Residential Buildings
Minimum lot area	10,000 square feet
Minimum lot width	80 feet
Maximum height	35 feet (see Section 2.03, Building Height)
All yard setbacks	Same as for multiple family residential buildings or equal to height of the main building, whichever is greater.
Maximum lot coverage	50%

CHAPTER 7A

R-4 LAKEFRONT MULTIPLE FAMILY RESIDENTIAL DISTRICT

(Chapter Added 11-14-11)

SECTION 7.01A INTENT

This District is intended to primarily accommodate multiple family developments together with compatible or associated, certain commercial waterfront uses that will preserve public views, enhance the ability of the public to enjoy the Village's water resources and improve the ability of the Village to offer a desirable waterfront community experience.

SECTION 7.02A PERMITTED USES

Land and/or buildings in the R-4 District may be used for the following purposes by right:

A. All principal permitted uses in the R-1 and R-2 Residential Districts

B. Multiple family dwellings

SECTION 7.03A SPECIAL LAND USES

Land and/or buildings in the R-4 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15.

A. Boat docks for multiple family developments

SECTION 7.04A SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17. No parking shall be permitted in the front yard.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. Lighting of parking lots shall be in accordance with the requirements of Chapter 17.

E. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by this Ordinance.

R-4 District Regulations	
Minimum lot area	22,000 square feet
Maximum density	8 dwelling units per acre*
Maximum height	30 feet
Front yard setback	30 feet
Side yard setback	15 feet (each side), or equal to the height of the main building, whichever is greater
Rear yard setback	30 feet
Maximum lot coverage	50%
Distance between buildings	25 feet, or equal to the height of the taller building, whichever is greater
Maximum building length	120 feet**
Minimum floor area	600 square feet UFA per unit plus 400 square feet per bedroom for each bedroom over 2
Waterfront Lot View	At least 50% of the street frontage shall be open (unobstructed by buildings or other man-made structures) yard areas between the street and the waterfront

* The area used for computing density shall be the total site area exclusive of any dedicated right-of-way of either interior or abutting roads.

** The Planning Commission may permit a longer building length when architectural features provide sufficient relief.

F. The land in this District shall comply with the Waterfront Access Parcel requirements of Section 3.31.

CHAPTER 8

[THIS CHAPTER RESERVED FOR FUTURE USE]

CHAPTER 9
MHP MANUFACTURED HOME PARK DISTRICT

SECTION 9.01 SCOPE

A. For the preservation of the interests of various types of residential developments which should be permitted in every community and for the protection of the residents of any manufactured home park development, these regulations are considered to be minimum standards to be applied to all manufactured home park developments in the Village of Pentwater.

B. All manufactured home parks shall comply with the applicable requirements of Act 419, P.A. 1976 as amended, provided further that said developments meet the standards and conditions and all other provisions as herein established.

SECTION 9.02 INSTALLATION AND OCCUPATION OF MANUFACTURED HOMES

A. No manufactured home shall be placed or parked or installed in a manufactured home park until such time as a building permit is obtained from the Building Inspector. Such permit shall be issued by the Building Inspector after making a finding that said manufactured home meets construction standards as approved by the Department of Housing and Urban Development (HUD) Code, or has been certified by a manufacturer as constructed according to the requirements of the HUD code.

B. No manufactured home shall be occupied by any person as a residence or for any other purpose until such time as said manufactured home is placed or situated on a specific lot in the manufactured home park and has been inspected by the Building Inspector and issued an Occupancy Permit. Such inspection shall include the placement, connection to utilities, and compliance with all necessary State, local, or other ordinances and regulations. Such permit shall be issued by the Building Inspector. In the event said manufactured home is moved to another lot or another manufactured home is placed on the specific lot, a new Occupancy Permit must be obtained by the owner or resident from the Building Inspector.

SECTION 9.03 APPLICATION PROCEDURES

Construction of a manufactured home park shall not be permitted until application for the manufactured home park has been approved by the Village Council in accordance with the provisions of this Chapter.

A. Site Plan: Any application for the extension, alteration, or construction of a manufactured home park shall be accompanied by a site plan of the proposed development and all permanent buildings indicating the proposed methods of compliance with these requirements. Said site plan shall be conformance with the provisions and requirements of Chapter 16 of this Ordinance.

B. Approval: The application for the manufactured home park development requires the approval of the Village Council upon recommendation from the Planning Commission. The Village Council shall approve, modify, or disapprove the proposed manufactured

home park. In reviewing the proposed development's acceptability the following shall be among the major considerations of both bodies prior to official action being taken:

1. Whether the proposal is in accordance with the Master plan.
2. Whether the proposal meets all the design standards of this Ordinance and other applicable local codes, regulations, or ordinances.
3. Whether the density of the proposed development could adversely affect adjacent properties and land uses.
4. Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate and inadequate sanitation and/or drainage facilities.
5. Whether the proposed development produces an extreme or undue demand on available fire and police protection.
6. Whether the traffic characteristics of the proposed development can be expected to place an extreme or undue burden on the adjacent publicly available vehicular and/or pedestrian circulation facilities.

SECTION 9.04 STANDARDS AND REGULATIONS

All manufactured home parks shall be designed and developed in accordance with the following standards and regulations.

A. Minimum site size for a manufactured home park shall be ten (10) acres.

B. The minimum number of manufactured home spaces shall be twenty-five (25). Required streets and utilities shall be completed for at least twenty-five (25) manufactured home spaces along with related improvements before first occupancy.

C. Each manufactured home park shall have direct access to a County Primary Road or State Trunkline street as defined by the County Road Commission, State of Michigan, or the Village of Pentwater.

D. No access to the site shall be located closer than two hundred (200) feet from the intersection of any two (2) arterial streets. Minimum street widths within the manufactured home park shall be accordance with the following schedule:

Parking	Direction	Minimum Street Width
No on-street parking	one (1) way	14 feet
	two (2) way	21 feet
Parallel parking one (1) side	one (1) way	24 feet
	two (2) way	31 feet
Parallel parking both sides	one (1) way	34 feet
	two (2) way	41 feet

E. No manufactured home or other building or structure for residential purposes shall be in excess of two and one-half (2½) stories, or in excess of a maximum height of thirty-five (35) feet.

F. Each manufactured home lot, exclusive of streets, shall have a minimum size of five thousand (5,000) square feet and a minimum width of forty (40) feet, as measured at the minimum building setback line. No more than one (1) manufactured home shall be parked on any one (1) lot, and no manufactured home shall be occupied by more than one (1) family.

G. The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in conjunction therewith, including, but not by way of limitation, storage sheds, cabanas, and porches:

1. fifteen (15) feet from the inside of the sidewalk;
2. ten (10) feet from any rear lot line;
3. ten (10) feet from the side lot line on the entry side, and five (5) feet from the side yard on the non-entry side.
4. A manufactured home may be placed on the side lot line, provided there is a minimum of fifteen (15) feet open space between said lot line and any other structure or manufactured home, including but not by way of limitation storage sheds, cabanas or porches.

H. Each lot shall front on sidewalks at least four (4) feet in width, located directly next to and parallel to the street.

I. Each lot shall provide a minimum of four hundred (400) square feet of paved off-street parking.

J. The front, back and side yards of every lot shall be suitably landscaped and properly maintained with lawn area, and there shall be one (1) shade tree provided for every two (2) lots.

K. The manufactured home park shall provide a buffer zone strip separating the manufactured home park from adjacent property. The buffer zone shall be properly planted with trees or shrubbery or other nursery stock of varying height, so as to provide a density sufficient to block the view of the manufactured home park and buildings up to a minimum of five (5) feet in height. No part of the buffer zone shall be used for any structure, board fences, right-of-way, or parking purposes. The buffer zone shall be maintained by the owner of the park.

1. In the event the back yard of any lot or lots within a manufactured home abuts adjacent property, the rear ten (10) feet of each back yard may be used as part of the buffer strip, provided further that no buildings, houses or other structure may be constructed with said strip.
2. The width of the buffer strip shall be in accordance with the following schedule:

Zoning of Adjacent Property	Width of Buffer
Residential Districts	25 feet
Non-residential Districts	35 feet

L. The manufactured home park shall have minimum setback from any public street of forty (40) feet, which shall be properly landscaped with grassed area and maintained by the owner and operator of the manufactured home park.

M. All streets within the manufactured home park shall be of bituminous aggregate or similar surface meeting AASHTO public street construction specifications, and provided with proper curbing.

N. The manufactured home park shall contain one (1) or more open space areas intended primarily for the use of park residents on a minimum ratio of two hundred and fifty (250) square feet for every manufactured home lot provided that buffer zone areas shall not be included as part of such requirement.

O. The manufactured home park shall provide one (1) or more storm shelters of size and capacity so as to accommodate all the residents of the park.

P. All street intersections and designated pedestrian crosswalks shall be illuminated by not less than .25 foot candles. All roads, parking bays and pedestrian walkways shall be illuminated by not less than .5 foot candles.

SECTION 9.05 UTILITY STANDARDS

The following utility standards shall apply to all manufactured home parks.

A. All utilities shall be underground.

B. All lots shall be provided with a public water and sanitary sewer service, or such water and sanitary services that may be approved by the Oceana County Health Department, Village of Pentwater and any other applicable agencies. All manufactured homes shall be connected thereto. All expenses of installation and connection shall be borne by the owner or operator of the manufactured home park. No costs shall be applied or taxed against owners of any adjacent property or along any main extended from the manufactured home park to the public sanitary sewer system, unless such adjacent owners shall install a sewer connection.

C. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots within the park in accordance with the requirements of the Michigan Department of Health or other applicable agency. All storm drainage and surface drainage facilities flowing from the park to adjacent areas shall be approved by the Oceana County Drain Commissioner or the Village of Pentwater.

SECTION 9.06 MANUFACTURED HOME STANDARDS

A. Every manufactured home shall be supported on a permanent concrete pad or foundation at least twelve (12) feet in width with a minimum of six hundred (600) square feet, and four (4) inches thick; and all areas between the trailer and ground shall be enclosed by a fire resistant skirt.

B. In the event the soil or topographic conditions of the proposed manufactured home park are such that other foundations or support are appropriate, and the developer provides to the Building Inspector a report by a certified engineer that piers are equal to or superior to the specifications as set forth in this Chapter, such foundations may be approved by the Building Inspector, provided such construction includes provisions for proper drainage and covering ground under each manufactured home.

C. Every manufactured home shall be at least twelve (12) feet in width and have a minimum of eight hundred (800) square feet of living area exclusive of porches and cabanas.

SECTION 9.07 INSPECTION AND PERMITS

A. The Building Inspector or such other person designated by the Village Council shall have the right to inspect the manufactured home park to determine whether or not the park owners or operators, or any owners or person occupying manufactured homes within the park are in violation of this ordinance, or any other state ordinance or state or governmental regulations covering manufactured home parks affecting the health, safety and welfare of inhabitants, under the following conditions:

1. He has reasonable reason to believe that the owner, operator or resident or owner of manufactured home in the park is in violation of any part of this or other ordinance.
2. That notice has been sent to the owner or operator of the manufactured home park at its last known address, and to the owner or resident of the manufactured home park at their last known address as shown on the occupancy permit for said manufactured home, and that the Village Council has not received satisfactory proof or indication that the purported violation is not a violation, or that the violation has been corrected within fifteen (15) days from the date of mailing said notice.

B. All persons, including but not by limitation, local or County officials, whose entry upon the manufactured home park property is necessary, proper or advisable in the execution of their duties, or to the execution of work authorized by a governmental body, or for the preservation of the peace, shall have the right to enter upon and inspect the manufactured home park at all reasonable times.

SECTION 9.08 MANUFACTURED HOME SALES

A. No person desiring to rent a dwelling unit site shall be required, as a condition to such rental, to purchase a manufactured home from the owner or operator of the park as long as the manufactured home intended to be located on such rented site conforms in size, style, shape, price, etc. as may be required by any reasonable rules and regulations governing the operation of the manufactured home park.

B. Nothing contained in this Ordinance shall be deemed as prohibiting the sale of a manufactured home lot by the individual owner or his agent, or those home occupations as permitted in the Zoning Ordinance. Provided such sales and occupations are permitted by the park regulations; provided further that a commercial manufactured home sales lot shall not be permitted in conjunction with any manufactured home park

CHAPTER 10
R-O RESIDENTIAL-OFFICE DISTRICT

(Amended 11-14-11)

SECTION 10.01 INTENT

The primary purpose of this District is to accommodate existing low intensity professional offices in residential areas through the conversion and adaptive reuse of existing residential structures in appropriate and conducive areas along Business Route 31. Further, it is the intention of the R-O District to provide a transitional area between a major thoroughfare and interior single-family residential areas. To this end, any new buildings or the conversion and alteration of existing buildings must be compatible by means of landscaping and architectural treatment with neighboring residences.

SECTION 10.02 PERMITTED USES

Land and/or buildings in the R-O District may be used for the following purposes by right:

A. All principal permitted uses in the R-1 and R-2 Residential Districts.

B. Medical and Dental Offices.

SECTION 10.03 SPECIAL LAND USES

Land and/or buildings in the R-O District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15.

A. Other professional offices such as: lawyers, architects, engineers, accountants and other similar professional office uses.

SECTION 10.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17. No parking shall be permitted in the front yard.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. Professional office uses shall be limited to Business Route 31.

E. The residential character of the R-O District shall be maintained. Uses shall be within existing structures or within new structures designed to reflect the appearance, scale and density of neighboring residential properties.

F. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by this Ordinance.

R-O DISTRICT REGULATIONS	
Minimum lot width	66 feet
Maximum height	35 feet
Front yard setback	17 feet
Side yard setback	6 feet
Rear yard setback	30 feet
Maximum lot coverage	50%

CHAPTER 11
C-1 GENERAL COMMERCIAL DISTRICT

(Amended 11-14-11)

SECTION 11.01 INTENT

This District is intended to provide a wide range of goods and services to residents of Pentwater as well as surrounding areas. These uses will generally be more intensive and less compatible with residential uses. These uses will have appropriate signs, adequate lighting levels, attractive landscaping, and convenient parking areas. Special attention will be given to the location of access points and other traffic and pedestrian conditions to ensure that such businesses are operated in a safe and efficient manner. Where possible, access points, parking areas, and other common features will be combined to serve more than one business.

SECTION 11.02 PERMITTED USES

(Amended 5-29-03) (Amended 8-5-04) (Amended 11-14-11)

Land and/or buildings in the C-1 District may be used for the following purposes by right:

A. Office buildings for any of the following occupations:

   1. Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional activities.
   2. Medical, optical, dental, and veterinary services.

B. Banks, credit unions, savings and loan associations, and other similar uses, including those with drive-through facilities.

C. Personal service establishments conducting services on the premises such as barber, beauty shops, massage establishments with a certified therapist, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.

D. Restaurants, excluding those with drive-through facilities.

E. Coin operated laundries.

F. Retail businesses of less than ten thousand (10,000) square feet gross floor area conducting business entirely within an enclosed building.

G. Commercial, family and group day care.

H. Parks, community buildings, and recreational facilities operated by a public, institutional, or private/non-profit organization.

I. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

J. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 11.03 SPECIAL LAND USES

(Amended 11-14-11)

Land and/or buildings in the C-1 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

A. Open air businesses, including building materials, supplies, and similar uses.

B. Restaurants, including drive through facilities.

C. Indoor theaters and commercial recreation centers, such as bowling alleys, skating rinks, and other similar uses.

D. Automobile service and repair facilities.

E. Hotels and motels.

F. Vehicle wash establishments.

G. Kennels.

H. Retail businesses of ten thousand (10,000) square feet gross floor area or greater conducting business entirely within an enclosed building.

I. Churches and schools.

J. Lodges and private clubs.

K. Commercial storage warehouses.

L. Commercial schools.

M. Nursing homes, homes for the aged, those State-licensed residential facilities with an approved capacity to serve more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.

N. Bed and breakfast inns.

SECTION 11.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17. No parking shall be permitted in the required front yard.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required in this Ordinance.

C-1 DISTRICT REGULATIONS	
Minimum lot area	20,000 square feet
Minimum lot width	100 feet
Maximum height	35 feet (see Section 2.03, Building Height)
Front yard setback	25 feet
Side yard setback	10 feet
Rear yard setback	25 feet
Maximum lot coverage	40%

CHAPTER 12
C-3 CENTRAL BUSINESS DISTRICT

SECTION 12.01 INTENT

This District is intended to provide a wide range of goods and services to residents of Pentwater as well as surrounding areas in a downtown setting. This District is characterized by a compact shopping area with on-street, municipal, and private parking areas. Emphasis is placed on pedestrian safety, convenient access, and ease of vehicular circulation.

SECTION 12.02 PERMITTED USES

(Amended 5-29-03) (Amended 8-5-04) (Amended 4-10-23)

Land and/or buildings in the C-3 District may be used for the following purposes by right:

A. Office buildings for any of the following occupations:

   1. Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional and service activities.
   2. Medical, optical, dental, and veterinary services.

B. Banks, credit unions, savings and loan associations, and other similar uses, excluding those with drive-through facilities.

C. Personal service establishments conducting services on the premises such as barber, beauty shops, massage establishments with a certified therapist, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.

D. Hotels and motels, including accessory uses, such as restaurants, gift shops, meeting rooms, and banquet facilities.

E. Restaurants, excluding those with drive-through facilities.

F. Coin operated laundries.

G. Commercial day care.

H. Parks, community buildings, and recreational facilities operated by a public, institutional, or private/non-profit organization.

I. Retail businesses of less than ten thousand (10,000) square feet gross floor area conducting business entirely within an enclosed building.

J. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 12.03 SPECIAL LAND USES

Land and/or buildings in the C-3 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

A. Banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities.

B. Retail businesses of ten thousand (10,000) square feet gross floor area or greater conducting business entirely within an enclosed building.

C. Automobile service and repair facilities.

D. Parking lots, public or private.

E. Residential dwellings accessory to commercial or office uses.

F. Churches and schools.

G. Lodges and private clubs.

H. Indoor theaters and commercial recreation centers, such as bowling alleys, skating rinks, and other similar uses.

I. Marinas.

J. Boat launches.

SECTION 12.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required in this Ordinance. Section 3.31 shall apply to Waterfront Lots. (Amended 9-9-2019)

C-3 DISTRICT REGULATIONS	
Minimum Lot Area	None Required
Minimum Lot Width	
Maximum Height	47 feet (Amended 7-15-26) (See Section 2.03, Building Height)
Front Yard Setback	None Required
Side Yard Setback	None Required except Against Residential District shall be 5 feet
Rear Yard Setback	None Required except Against Residential District shall be 15 feet
Maximum Lot Coverage	None Required

CHAPTER 12A
C-4 HOTEL RESORT DISTRICT

SECTION 12A.01 INTENT

The purpose of this District is to accommodate existing hotel resort facilities, oriented to the vacationing and traveling public, located in areas of existing residential uses.

SECTION 12A.02 PERMITTED USES

A. Land and/or buildings in the C-4 District may be used for the following purposes by right:

B. Hotels, including restaurants serving food and drink for consumption on the premises in conjunction with the hotel operation.

C. Single-family dwellings.

D. Reserved for future use.

E. State-licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including adult foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

F. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 12A.03 SPECIAL LAND USES

Land and/or buildings in the C-4 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

None

SECTION 12A.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. A solid fence or deciduous planting of not less than six (6) feet in height or more than eight (8) feet in height is required on all property lines adjoining any residential use.

E. Setbacks, height, area, and lot dimensions are required as noted below.

C-4 District Regulations	All Uses
Minimum lot area	8,000 square feet
Minimum lot width	66 feet
Maximum height	35 feet (See Section 2.03, Building Height)
Front yard setback	17 feet
Side yard setback	6 feet
Rear yard setback	20 feet
Minimum floor area (Single-family dwelling units only)	750 square feet UFA on the first floor
Maximum lot coverage	No maximum

CHAPTER 13
LI LIGHT INDUSTRIAL DISTRICT

SECTION 13.01 INTENT

This District is intended to provide exclusive areas for industrial uses in areas served by adequate infrastructure. Uses in this District are to provide for various types of light industrial and manufacturing uses, wholesale businesses, warehouses, and other uses compatible with one another and with surrounding land uses and with an absence of objectionable external effects. These uses are characterized by moderate lot coverage, adequate setbacks, environmental sensitivity, and creative site design. The regulations are defined to exclude uses which would have a detrimental effect upon the orderly development and functioning of the District, as well as surrounding land uses.

SECTION 13.02 PERMITTED USES

Land and/or buildings in the LI District may be used for the following purposes by right:

A. Industrial plants manufacturing, compounding, processing, packaging, treating, or assembling the following:

1. Agricultural products, including but not limited to, the production in greenhouses of flowers, plants, shrubs, trees, or other similar living products.
2. Food and kindred products including meat, dairy, fruit, vegetable, seafood, bakery, confectionery, beverage, and similar products (but not including slaughtering of animals, or rendering or refining of fats and oils).
3. Furniture and fixtures.
4. Printing, publishing, and allied industries.
5. Electrical machinery, equipment and supplies, electronic components and accessories.
6. Engineering, measuring, optical, medical, scientific, photographic, and similar instruments and goods.
7. Cut stone and stone products related to monuments.

B. Industrial plants manufacturing, compounding, processing, packaging, treating, or assembling materials or products from previously prepared materials including the following:

1. Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yard and thread, and other similar products.
2. Apparel and other finished products including clothing, leather goods, furnishing and canvas products.
3. Lumber and wood products including mill work, prefabricated structural work products and containers.
4. Paper and paperboard containers and products.
5. Biological products, drugs, medicinal chemicals and pharmaceutical preparations.

6. Glass, jewelry, silverware and plated ware, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils, and other office and artist supplies and materials, notions, signs, and advertising displays.
7. Pottery, figurines, and other ceramic products using only previously pulverized clay.
8. Fabricated metal products, except heavy machinery and transportation equipment.

C. Wholesale businesses, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products, and lumber.

D. Warehousing (refrigerated and general storage within an enclosed building).

E. Laundries, laundry services, and dry cleaning and dyeing plants, excluding retail/service outlets serving the general public.

F. Office buildings for executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the Zoning Administrator.

G. Research and development facilities, including accessory production activities otherwise permitted in this District.

H. Commercial schools, including trade or industrial schools.

I. New building materials sales and storage, including contractor's showrooms and related storage yards provided such yards and enclosed and screened in accordance with the requirements of this Ordinance.

J. Body shops and wrecker services, including storage yards, provided such yards are enclosed and screened in accordance with the requirements of this Ordinance.

K. Utility and public service buildings, including storage yards, provided such yards are enclosed and screened in accordance with the requirements of this Ordinance, but not including essential public services such as poles, wires, and underground utility systems.

L. Banks, credit unions, savings and loan associations, and other similar uses as determined by the Zoning Administrator, including those with drive-through facilities.

M. Accessory buildings, structures, and uses for Permitted and Special Land Uses, as regulated by Section 3.08.

SECTION 13.03 SPECIAL LAND USES

Land and/or buildings in the LI District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15:

A. Truck and freight terminals.

B. Restaurants, excluding those with drive through facilities.

C. Warehousing, bulk storage, and transport of propane, liquid petroleum, fuel oil, and similar fuels.

D. Junkyards and salvage yards.

E. Commercial storage warehouses.

F. Adult uses.

G. Utilities and communications installations more than fifty (50) feet in height for commercial services such as microwave towers, television and radio towers, and towers for Commercial Wireless Telecommunication Services.

H. Medical Marijuana Business

SECTION 13.04 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Site Plan Review is required in accordance with Chapter 16.

B. Parking is required in accordance with Chapter 17. No parking shall be permitted in the required front yard.

C. Signs are permitted in accordance with the requirements of Chapter 21.

D. All Permitted and Special Land Uses, shall be conducted wholly within a completely enclosed building, except that outside storage of materials, equipment, or vehicles and loading and unloading operations is permitted, subject to the following restrictions:

1. Materials may be stored only in the side or rear yards, except that materials may not be stored on the street side of a corner lot or in any required yard.
2. All storage of materials shall be visually screened to a height of at least six (6) feet above the highest elevation of the nearest adjacent road or property bordering the site. Such screening shall meet the requirements of this Ordinance.
3. In no case shall the outside storage of materials be stacked higher than the height of the visual screen.
4. One (1) non-gated opening, no greater than twelve (12) feet in width, shall be permitted in the screen for each two-hundred (200) feet of frontage on a street.

E. Setbacks, height, area, and lot dimensions are required as noted in the following chart, unless greater setbacks are required by this Ordinance.

LI DISTRICT REGULATIONS	
Minimum lot area	1 acre
Minimum lot width	100 feet
Maximum height	40 feet (See Section 2.03, Building Height)
Front yard setback	25 feet
Side yard setback	20 feet
Rear yard setback	40 feet
Maximum lot coverage	60%

CHAPTER 14
PLANNED UNIT DEVELOPMENT – PUD

SECTION 14.01 SCOPE

Traditional zoning, with its rigid separation of uses into different zones under very restricted placement controls, has now been recognized as being inappropriate to many medium and large scale developments. Planned developments, which modify the traditional forms of zoning, permit a developer to secure advantages which can be passed on to the general public by virtue of more desirable and more economical development. This Chapter provides a controlled degree of flexibility in the placement of structures and lot sizes and types of uses, while maintaining adequate planning and development standards. The Planned Unit Development (PUD) provisions shall be applied as a separate zoning district, in accordance with the following additional regulations.

SECTION 14.02 OBJECTIVES

The PUD Objectives are intended to guide the applicant in the preparation of the land use and development plan and they shall be used as a basis for the evaluation of the proposed PUD. The following Objectives shall be considered in reviewing an application for PUD zoning in order to realize the inherent advantages of coordinated, flexible, comprehensive, and long-range, planning and development of such PUD.

A. To provide more desirable living, shopping and working environments by preserving the natural character of open fields, stands of trees, brooks, ponds, floodplains, shorelines, hills, and similar natural assets.

B. To encourage with regard to residential use the provision of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units.

C. To encourage developers to use a more creative and imaginative approach in the development of residential areas.

D. To provide more efficient and aesthetic use of open areas.

E. To encourage innovation in the physical development pattern of the Village by providing a variety of housing arrangements with well designed access and circulation.

SECTION 14.03 APPLICATION AND REVIEW

A. Process

1. An application for a PUD shall consist of the following minimum requirements:
   a. A fully completed and signed application form as provided by the Village.
   b. The application review fee and any other fees required by the Village.
   c. A legal description of the property to be included in the PUD.
   d. A Preliminary Sketch Plan or Final Development Plan, completed in accordance with the requirements of this Chapter.

2. A Planned Unit Development approval shall require a rezoning from the existing zone district to the PUD District. The rezoning shall not be considered until approval of a Preliminary Sketch Plan has been accomplished.
3. Within one (1) year from the Preliminary Sketch Plan approval the applicant shall submit a Final PUD application and a petition for PUD rezoning. Failure to submit the application within this time will void the Preliminary Sketch Plan approval.
4. The Final PUD application will be submitted and reviewed in accordance with the requirements of this Chapter and the Zoning Act. Approval of the Final PUD will constitute approval of the rezoning.

B. Preliminary Sketch Plan

1. An application for a PUD approval will be accompanied by a Preliminary Sketch Plan including maps and written statement, in ten (10) copies, and shall be submitted to the Zoning Administrator.
2. The Planning Commission shall review the Preliminary Sketch Plan to determine its conformance with the requirements of this Chapter.
3. The Preliminary Sketch Plan may be in general, schematic form containing, at a minimum, the following, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
   a. A legal description of the site, reflecting area size and boundary line dimensions. A current, properly notated surveyor's map may be acceptable.
   b. The Preliminary Sketch Plan shall show enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.
   c. Existing and proposed land uses and their approximate location, character, density, and type, including the character and approximate net residential density being proposed.
   d. Existing topographic character of the site.
   e. Circulation patterns including roadways, drives, parking areas, and pedestrian ways.
   f. Public uses including schools, parks, open space, etc.
   g. Existing flood plains, bodies of water and other unbuildable areas.
   h. Existing significant natural features.
4. A written statement shall also be submitted with the Preliminary Sketch Plan containing, at a minimum, the following information:
   a. An explanation of the character of the PUD, the manner in which it has been planned to take advantage of the PUD regulations, and the manner in which it reflects the Objectives for PUDs as stated in this Chapter.
   b. Stages or phases in which the project will be built including the expected starting and completion dates of each phase.

c. A statement of ownership or legal interest of all land within the proposed PUD.

d. A general indication of the expected schedule of development.

e. A general indication of the expected public interest to be served by the PUD and conformance of the PUD to the Pentwater Village Master Plan.

f. A general statement regarding conformance to the Qualifying Conditions for the PUD as stated in this Chapter.

g. An indication of any contemplated private deed restrictions or covenants.

h. A description of how the PUD meets the requirements of Section 14.03.B.4.b.

6. The Planning Commission shall review the Preliminary Sketch Plan and make such recommendations to the applicant that will reasonably cause the Plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed Plan, but shall not be bound by any statements or indications of the general acceptance of the Plan.

C. Final PUD

1. Within one (1) year from the Preliminary Sketch Plan review the applicant shall submit a final PUD application and a petition for PUD rezoning.

2. The PUD application shall contain, at a minimum, the following, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:

a. An application fee as established by the Village Council.

b. A final site plan as specified in Chapter 16 for the entire PUD or for one or more phases of the PUD.

c. A development schedule indicating the approximate date for commencement of construction.

d. Agreements, provisions, or other covenants which will govern use, maintenance, and continued protection of the PUD and any of its common use or open space areas.

3. Planning Commission Review

a. Upon receipt of an application for a Final PUD the Planning Commission shall conduct a public hearing, notice of which shall be given in accordance with the Zoning Act.

b. Following the public hearing, the Planning Commission shall consider the application and submit a recommendation to the Village Council. The Planning Commission shall consider the following in formulating its recommendation:

(1) Conformance of the PUD request with the Pentwater Village Master Plan.

(2) The overall objectives of PUD as stated in Section 14.02.

(3) The qualifying conditions and permitted uses for the PUD.

(4) The site plan review standards of Chapter 16.

(5) Compatibility of the proposed PUD and its specific uses with existing and proposed development in the surrounding area.

D. Village Council Decision

1. After receiving the recommendation of the Planning Commission, the Village Council shall conduct a public hearing, notice of which shall be given in accordance with the Zoning Act. Upon completion of the public hearing, the Village Council shall consider the application for the Final PUD rezoning, public comments, the Planning Commission recommendation, and other materials relevant to the decision. The Village Council shall then, make its findings as to denial or approval of the rezoning in accordance with the proposed PUD plan, using the standards noted in B.4.b of this Section.

2. An approval shall not be considered final until the applicant submits a written acceptance of the approved PUD. No building permits may be issued until such final approval is granted and the written acceptance has been received.

3. After final approval, the following requirements shall also be met, if applicable:

a. Where the provisions of Act 591, Michigan Public Acts of 1996, as amended, (Land Division Act) shall apply, the applicant shall thereafter submit the information and plans as may be required by Act 591 and all other local procedures or regulations pertaining to planning approval.

b. The Village Council shall cause to have legal documents or contracts prepared which involve Pentwater Township or the Village of Pentwater and are required as a result of the conditions contained in the final approval. All contracts shall be executed and recorded in the office of the Oceana County Register of Deeds.

4. The Zoning Administrator shall inspect the development at each stage to insure reasonable compliance with the conditions of final approval, the final Site Plan and the approved schedule of improvements.

E. If the PUD is to be developed in phases, the final site plan may be prepared for one (1) or more phases. Approval of the final PUD shall be completed prior to the development of each individual phase. All phases must be consistent with the PUD as depicted in the preliminary sketch plan.

F. Changes to an Approved PUD

1. If changes to an approved Planned Unit Development are desired the holder of an approved PUD plan shall notify the Zoning Administrator of the desired change.

2. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design nor any specified

conditions imposed as part of the original approval. Minor changes shall include those as described in Section 16.07.B.

3. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be reviewed in the same manner as the original PUD application.

SECTION 14.04 PERMITTED USES

A. The following uses of land and structures may be permitted within a PUD.

1. Single-family detached dwellings.
2. Two-family dwellings, provided that such units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
3. Multiple family dwellings, provided that such units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
4. Golf courses, indoor tennis clubs, athletic clubs, and marinas (only if such a marina is permitted in underlying district), including ancillary commercial activities such as pro shops, restaurants (excluding those with drive through facilities), and similar uses open only to members and their guests.
5. Any "Permitted Use" within the C-1 District, provided that:
   a. The total site of the PUD is at least twenty (20) contiguous acres;
   b. The gross area designated for commercial use including parking, accessways, and yards or open space shall not exceed five percent (5%) of the gross site area of the PUD;
   c. All such uses are integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.;
   d. All provisions of Section 10.04, D are met.
   e. Such uses shall not materially alter the residential character of the neighborhood and/or the PUD;
   f. All merchandise for display, sale or lease shall be entirely within an enclosed building(s); and
   g. Buildings designed for non-residential uses are constructed according to the following schedule:
      (1) If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five percent (75%) of these units must be constructed prior to construction of any non-residential use.
      (2) If the PUD contains more than twenty (20) dwelling units, fifty percent (50%) of these units shall be constructed prior to the construction of any non-residential use.
   h. No commercial uses shall be established without the construction and occupancy of at least twenty (20) residential dwelling units.
6. Accessory buildings, structures, and uses for Permitted Uses, as regulated by Section 3.08.

7. State-licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including adult foster care facilities licensed by a State agency for care and treatment of persons released from or assigned to adult correctional institutions. (Amended 5-12-08)

SECTION 14.05 DEVELOPMENT REQUIREMENTS

A. Density: Except as may otherwise be permitted by this Ordinance, the maximum permitted density for any residential development within a PUD shall not exceed the average gross density established in the Pentwater Village Master Plan for that area. The total permitted density shall be determined through the submission of a plan indicating the general design based on the requirements of the existing zone district.

B. Open Space: Any open space provided in the PUD shall meet the following considerations and requirements:

1. Open space areas shall be large enough and of proper dimensions so as to constitute a usable area, with adequate access, through easements or other similar arrangements, such that all properties within the entire PUD may utilize the available open space.
2. Evidence shall be given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the Village of the future maintenance thereof.
3. Open space may be established to separate use areas within the PUD, where significant natural features may be preserved, and/or be used for passive or active recreation.
4. All land set aside as open space shall be deed restricted to ensure that the open space is preserved in perpetuity. Land set aside for agriculture uses may, at the discretion of the property owner(s), be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development, unless an amendment to the PUD is applied for and approved.
5. All open space shall be in the joint ownership of the property owners within the PUD. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space, unless other acceptable arrangements are made and accepted by the Village Council.

C. The following minimum lot and yard requirements shall be met for all properties within the PUD:

FRONT YARD	30 feet
SIDE YARD	Single and Two-Family Dwellings - 20 feet total/10 feet minimum
	Multiple Family Dwellings and Non-Residential Buildings - 30 feet
REAR YARD	30 feet
BUILDING HEIGHT	35 feet or 2½ stories
LOT COVERAGE	30%
AVERAGE MINIMUM LOT AREA	Single and Two-Family Dwellings - 60,000 square feet (provided that no lot shall be less than 10,000 square feet)
	Multiple Family Dwellings - 2 acres for first 4 units plus 2,500 square feet for each unit over 4. Overall net density shall not exceed four (4) units per acre
AVERAGE MINIMUM LOT WIDTH	200 feet
MINIMUM FLOOR AREA	Single and Two-Family Dwellings - 750 square feet GFA/600 square feet GFA on ground floor
	Multiple Family Dwellings - Same as required for the R-3 District

D. Signs shall be as permitted in the most restrictive zone district in which the use requiring the sign is permitted, except as may be permitted otherwise as part of the PUD approval process.

E. Parking requirements shall be as required in Chapter 17.

F. Utilities shall be installed underground, whenever reasonably possible.

SECTION 14.06 RESIDENTIAL CLUSTER DEVELOPMENT REGULATIONS

A. A PUD may be approved as a residential cluster development in accordance with the requirements of this Section. Residential cluster developments are not intended simply as a means to reduce lot sizes. The intent of the regulations is to foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be developed.

B. Qualifying Conditions: In addition to the applicable provisions of this Chapter, residential cluster developments shall also comply with the following:

1. The minimum development size shall be five (5) acres. (Amended 2-13-2023)

2. The applicant shall demonstrate that the property proposed for such cluster development contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which would otherwise be developed but which is preserved as a result of the residential cluster development.

C. Development Regulations

1. The minimum lot area, width, setbacks and yard requirements for any lot designated for residential use shall be determined by the Village Council, after recommendation by the Planning Commission, but in no case shall be less than the following:

Lot size	10,000 square feet
Front yard	25 feet
Side yard	10 feet total/5 feet minimum
Rear yard	20 feet
Lot coverage	25%
Lot width	90 feet

2. Land not proposed for development, but used for the calculation of overall density, shall be labeled on the PUD plan and considered open space. Open space shall be deed restricted or otherwise held as open space in perpetuity and subject to the requirements of this Chapter.

3. The total developed density of the residential cluster development shall not exceed the average gross density established in the Pentwater Village Master Plan for that area, except the Village Council may permit the following additional dwelling units subject to the requirements noted:

   a. A twenty five percent (25%) increase in the number of dwelling units may be permitted if all of the dwelling units within the PUD are served by a community water service system and the PUD does not lie within any existing public water service district.

   b. A fifty percent (50%) increase in the number of dwelling units may be permitted if all of the dwelling units within the PUD are served by a community wastewater disposal system and the PUD does not lie within any existing public sanitary sewer service district.

   c. If both a community wastewater disposal system and a community water service system are provided to serve all dwelling units within the PUD, the Village Council may permit up to a one hundred percent (100%) increase in the total number of permitted dwelling units.

   d. For the purposes of this Section, a *community wastewater disposal system* shall be defined as all aspects of a complete system required to properly collect, treat, and dispose of wastewater from all of the individual dwelling units or other buildings within the PUD, including all pumps, pipes, laterals, controls, valves, treatment units, and other equipment necessary to collect, treat, and dispose of wastewater at a central location. A *community water*

service system shall be defined as all aspects of a complete system required to draw water from a groundwater source, including all pumps, pipes, laterals, controls, valves, and other equipment necessary to provide potable domestic water to all of the individual dwelling units or other buildings within the PUD from a central location or water source.

4. Minimum floor area and height regulations for dwelling units shall conform to the R-1 Residential District requirements.

D. Review Standards: Before a residential cluster development may be approved, the Village Council, after recommendation by the Planning Commission, shall find:

1. That the residential cluster development does not substantially alter the character of the general neighborhood in which the development is proposed;
2. That the building locations of the residential cluster development do not unduly impact other single-family uses in the vicinity;
3. That the residential cluster development preserves, in perpetuity, unique site conditions, such as significant natural features, large open space areas, or active agricultural land. The applicant must demonstrate that the land preserved would otherwise be capable of development under the existing zoning;
4. That the residential cluster development can accommodate adequate and safe disposal of sanitary sewer and can provide an adequate, assured source of water for domestic use. Approval of the Oceana County Health Department or other agencies, while required to develop the site, will not be the sole determining factor in this regard. The Planning Commission and/or Village Council may require specific evidence that groundwater sources will be protected and that other environmental concerns are met. To this end, the Planning Commission and/or Village Council may specify what additional evidence it deems to be acceptable to make this determination, including additional soil borings, soil reports, hydrological tests, and other such evidence which will be submitted by the applicant and reviewed prior to approval of the PUD. Such additional studies may be required where one (1) or more of the following conditions are present:
   a. Existing studies or reports showing evidence of groundwater contamination problems either on the lot or parcel on which the PUD is to be placed, or on lots or parcels within a one (1) mile radius of the PUD site;
   b. Existing sites identified by Act 307 or the Michigan Public Acts of 1982, as amended (The Michigan Environmental Response Act) and Michigan Department of Environmental Quality identified LUST (Leaking Underground Storage Tanks) sites within a one (1) mile radius of the PUD site;
   c. Existing licensed landfills (active or inactive) within a three (3) mile radius of the PUD site.
   d. Industrially used or zoned sites within a one (1) mile radius of the PUD site.
   e. Existing residential development within a one (1) mile radius of the PUD site that equals or exceeds a gross density (total acres divided by number of dwelling units) of one unit for every one and one-half (1.5) acres.

f. Existing agricultural development totaling more than five hundred (500) acres within a one (1) mile radius of the PUD site.

g. Any other condition which the Planning Commission and/or Village Council may deem as posing a potential threat to groundwater sources or other sensitive environmental features.

SECTION 14.07 CONDITIONS OF APPROVAL

A. As part of an approval to any PUD, the Planning Commission and Village Council may impose any additional conditions or limitations as in their judgment may be necessary for protection of the public interest.

B. Such conditions shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Zoning Act.

C. The conditions imposed shall be included in the Ordinance approving the PUD. The conditions shall remain unchanged unless an amendment to the PUD is approved in accordance with this Ordinance.

CHAPTER 15
SPECIAL LAND USES

SECTION 15.01 SCOPE

This Chapter provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the Village as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the Village of Pentwater. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, the following uses shall conform to the specific standards cited in Section 15.04, as applicable.

SECTION 15.02 APPLICATION AND REVIEW PROCEDURES

(Amended 10/12/2026)

A. An application shall be submitted through the Clerk, accompanied by:

1. the payment of a fee as established by the Village Council;
2. a completed application form, as provided by the Village; and
3. a complete site plan in ten (10) copies, as specified in Chapter 16.

B. The completed application, along with the required site plan, shall be submitted to the Zoning Administrator or other designated official. The Zoning Administrator or other designated official will review the application and plans for completeness, then transmit them to the Planning Commission for review.

C. The Planning Commission shall hold a public hearing on the application, providing notice of such hearing is in accordance with the Zoning Act. The Planning Commission shall then review the application and such other information available to it through the public hearing or from any other sources, including recommendations or reports from the Village's planner, engineer, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed.

D. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might reasonably result in favorable action upon resubmittal.

E. A Special Land Use approved pursuant to this Chapter shall be valid for one (1) year from the date of approval. Each development shall be under construction and show substantial progress toward completion or begin operation of the approved activity within one (1) year after the date of approval of the Special Land Use, except as noted below.

1. The Planning Commission may grant one (1) six (6) month extension of such time period, provided the applicant requests the extension prior to the date of the expiration of the Special Land Use approval.
2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.

G. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the Special Land Use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

SECTION 15.03 GENERAL STANDARDS

A. In addition to the standards established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in Section 16.08 hereof, and conditions, as authorized and governed by Section 16.09 may be placed upon a Special Land Use.

B. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use meets the following standards and, in addition, that each use of the proposed site will:

1. be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;
2. be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;
3. not create excessive additional requirements at public cost for public facilities and services; and
4. not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons or property in the vicinity, or the general welfare, by reason of excessive effects of traffic, noise, smoke, fumes, glare, or odors or other effects determined relevant by the Planning Commission.

C. The Planning Commission may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the Special Land Use approval, pursuant to Section 15.02.G.

SECTION 15.04 SPECIAL LAND USE SPECIFIC REQUIREMENTS

The general standards and requirements of Section 15.03.B, are basic to all Special Land Uses. The specific and detailed requirements set forth in the following Section relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

A. Adult Uses.

1. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several are concentrated in certain areas, or when located in proximity to a Residential District, thereby having a detrimental effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities which are prohibited in other Sections of the Zoning Ordinance.
2. Adult uses shall comply with the following requirements:
   a. The adult use shall not be located within a one thousand (1,000) foot radius of any other such use or be located on a lot or parcel within five hundred (500) feet of a public park, school, child care facility, church, or place of worship.
   b. Any sign or signs proposed for an adult use must comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
   c. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that:
      (1) "Persons under the age of 18 years are not permitted to enter the premises." and,
      (2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
   d. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
   e. All off-street parking areas shall be illuminated from at least ninety (90) minutes prior to sunset to at least sixty (60) minutes after closing.
   f. No adult use shall be open for business prior to ten o'clock a.m. (10:00 a.m.), nor after ten o'clock p.m. (10:00 p.m.). However, employees or other

agents, or contractors of the business may be on the premises at other hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.

g. All persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan, or have such other similar qualifications which must be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the Village, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.

h. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission, as provided herein.

B. Bed and breakfast establishments. (Amended 5-12-08)

1. The establishment shall be serviced by approved water and sanitary sewer services.
2. The establishment shall be located on property with direct access to a paved public road.
3. Such uses shall only be established in a detached single-family dwelling.
4. Parking is required in accordance with Chapter 17 and shall be defined as such for guest parking and it shall be located to minimize negative impacts on adjacent properties.
5. The lot on which the establishment is located shall meet the minimum lot size requirements of the zone district.
6. The total number of guest rooms in the establishment shall not exceed seven (7), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed a total of ten (10) guest rooms.
7. Exterior refuse storage facilities beyond what might normally be expected for a detached single-family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.
8. One (1) sign shall be allowed for identification purposes. Such sign shall not exceed sixteen (16) square feet in area, and may not exceed four (4) feet in height. If illuminated, such illumination shall only be of an indirect nature; internally lighted signs are not permitted. Such sign shall be set back at least one-half (½) of the front yard setback area setback of the zoning district in which the use is located and shall be located at least fifteen (15) feet from any side or rear lot line.
9. The establishment may contain the principal residence of the operator; however under no circumstance may an off-site principal residence of the operator be located outside the village limits.

10. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses except Accessory Food Service operations.
11. Meals may be served only to the operator's family, employees, and overnight guests except Accessory Food Service operations.

C. Bulk oil and gasoline distribution (including warehousing and transport facilities).

1. The minimum lot size shall be five (5) acres.
2. The lot shall be located so that at least one (1) side abuts an arterial street and all access shall be from such arterial street.
3. The main and accessory buildings and any storage facilities shall not be located nearer than three hundred (300) feet to a property line of any adjacent Residential District or use.
4. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures will not cause the contamination of any groundwater source.

D. Commercial storage warehouses.

1. Minimum lot area shall be two (2) acres.
2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family detached dwelling in the R-1 District.
3. One (1) parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the storage area. The parking requirement may be met with the parking lanes required for the storage area.
4. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
5. One (1) parking space shall also be required for every twenty (20) storage cubicles, up to a maximum required ten (10) spaces, to be located adjacent the rental office, for the use of customers.
6. Parking lanes and access aisles adjacent the individual storage facilities shall be required. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.
7. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.

E. Funeral homes and mortuary establishments.

1. Minimum lot area shall be one (1) acre with a minimum width of one hundred and fifty (150) feet.
2. A well designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
3. A caretaker's residence may be provided within the principal building.

4. The proposed site shall front upon a paved public street. All ingress and egress shall be from said thoroughfare.

F. Child Care Centers, Day Care, Group Day Care Homes, Nursing Homes and other Care Facilities (Amended 5-12-08)

1. Requirements for care homes and facilities permitted as a special land use under Section 4.03.L (R-R District), Section 5.03.K (R-1 District), Section 6.03.H (R-2 District) and Section 7.03.I (R-3 District). A facility of this type shall be permitted as a special land use if the following conditions are satisfied:

a. *Lot size.* The lot size shall be not less than the minimum lot size applicable in the district in which the facility is located.

b. *Parking.* Parking shall conform to the parking regulations applicable in the district in which the facility is located. The facility shall have no less than one parking space for each owner/operator and one parking space for every two persons being served (based on approved capacity).

c. *Fire Chief and Health Department Approvals.* The facility shall be subject to the approval of the Township fire chief and subject to all State and county health department requirements.

d. *Fencing.* All outdoor play areas shall be enclosed by a chain link fence or solid fence of at least four feet in height, which shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet.

e. *Operating Hours.* Operating hours of any facility providing day care shall not exceed 16 hours during any 24-hour period, and unless specifically approved by the Planning Commission based upon a finding under particular circumstances of no negative impact on neighboring properties or the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.

f. *Property Appearance.* The property shall be maintained consistent with the visible characteristics of the neighborhood.

g. *Signs.* Signs shall conform to the sign regulations applicable in the district in which the facility is located.

h. *Licensing.* The facility shall be registered and licensed under Act 16 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended.

i. *Outdoor Play Area.* A child care center or other facility offering services to more than six minors shall provide and maintain an outdoor play area of not less than 5,000 square feet. The area shall be free from sharp gravel, glass or cinder and shall be well drained. The outdoor play area shall be completely enclosed by a chain link fence or a solid fence of at least four feet in height and shall be

screened from any abutting residential use by vegetation having a height when planted of at least five feet. In its discretion, the Planning Commission may permit an outdoor play area of less than 5,000 square feet if it is demonstrated that such minimum is not necessary to preserve the residential character of the property. In making this determination, the Planning Commission shall consider the amount of outdoor play area proposed, the number of children, the hours of operation and the type of recreational activities provided indoors and outdoors.

j. *Refuse Collection.* All refuse collection facilities shall be screened from view by adequate fencing.

k. *Distance between Facilities.* A home or facility seeking approval under this section shall not be located within 1,500 feet of any existing child care center, group home or other facility described in this section.

2. Requirements for nursing homes, homes for the aged and those State licensed residential facilities serving more than 12 persons permitted as special land uses under Section 5.03.F (R-1 District), Section 6.03.E (R-2 District), Section 7.03.F (R-3 District) and Section 10.03.H (C-1 District). A facility under this section may be permitted in the foregoing districts if the following conditions are satisfied:

a. *Lot Size.* The minimum lot size shall be calculated by multiplying the number of persons approved for capacity of the facility by 5,000 square feet, but in no event shall the minimum lot size be less than two acres.

b. *Parking.* Parking shall conform to the parking regulations applicable in the district in which the facility is located. The facility shall have no less than one parking space for each owner/operator and one parking space for every two persons being served (based on approved capacity).

c. *Setbacks.* No part of the facility building or buildings may be closer than 100 feet to an adjacent lot line; except that the Planning Commission may reduce this setback requirement to not less than 25 feet if it finds that such reduction in the setback will not be injurious to the use or enjoyment of nearby properties; will not result in traffic or other safety hazards; and will not materially impair the intent and purpose of this ordinance or the public's interest. In modifying such setback requirements, the Planning Commission may attach conditions regarding the location, character, landscaping or treatment of the buildings or premises or other such matters as are reasonably necessary to the furtherance of the intent and spirit of this ordinance and the public's interest.

d. *Building Size*. The building must provide for each tenant, elderly or retired person or minor in the building or buildings so used a minimum floor area exclusive of basement or attic space of 250 square feet.

e. *Fire Chief and Health Department Approvals*. The facility shall be subject to the approval of the Township fire chief and subject to all State and county health department requirements.

f. *Property Appearance*. The property shall be maintained consistent with the visible characteristics of the neighborhood.

g. *Signs*. Signs shall conform to the sign regulations applicable in the district in which the facility is located.

h. *Licensing of Facilities*. Homes for the aged shall be registered and licensed as required under Part 213 of the Public Health Code, MCL 333.21301 *et seq.*, as amended. Nursing homes shall be registered and licensed as required under Part 217 of the Public Health Code, MCL 333.21701 *et seq.*, as amended.

i. *Refuse Collection*. All refuse collection facilities shall be screened from view by adequate fencing.

j. *Operating Hours*. Operating hours of any facility providing day care shall not exceed 16 hours during any 24-hour period, and unless specifically approved by the Planning Commission based upon a finding under particular circumstances of no negative impact on neighboring properties or the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.

k. *Outdoor Play Area*. A child care center or other facility offering services to more than six minors shall provide and maintain an outdoor play area of not less than 5,000 square feet. The area shall be free from sharp gravel, glass or cinder and shall be well drained. The outdoor play area shall be completely enclosed by a chain link fence or a solid fence of at least four feet in height and shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet. In its discretion, the Planning Commission may permit an outdoor play area of less than 5,000 square feet if it is demonstrated that such minimum is not necessary to preserve the residential character of the property. In making this determination, the Planning Commission shall consider the amount of outdoor play area proposed, the number of children, the hours of operation and the type of recreational activities provided indoors and outdoors.

l. *Fencing.* All outdoor play areas shall be enclosed by a chain link fence or solid fence of at least four feet in height, which shall be screened from any abutting residential use by vegetation having a height when planted of at least five feet.

m. *Impact on Neighborhood.* The facility is harmonious with the character of the neighborhood and will not have a negative impact on or injure nearby properties or the use and enjoyment of nearby properties.

3. **Child Care Center as Accessory Use.** A child care center or day care center (a "child care facility") may be permitted as an accessory use for a church, nursing home, home for the aged or a business, subject to review and approval by the Planning Commission according to the requirements provided for special land uses by this chapter and the standards provided in Section 15.04.E.2, and subject to all of the following additional conditions and requirements.

a. The child care facility may receive infants, pre-school and elementary school age children for care (including, without limitation, supervision, training or educational instruction) for periods of less than 24 hours per day.

b. The child care facility shall provide care primarily to children of employees of the facility while those employees are engaged in carrying out their employment with the facility. The requirements of this paragraph shall be deemed satisfied so long as preference in admission to the facility shall be given to children of employees prior to the admission of any children of persons who are not employees of the facility. This paragraph shall not apply to churches.

c. The principal functions of the child care facility accessory to a nursing home or home for the aged shall be to provide opportunities for the interaction of, and to foster an inter-generational relationship between, the elderly residents of the facility and the children attending the child care facility, and to provide child care for the children of employees of the facility. The principal function of a child care facility accessory to a business shall be to provide child care for the employees of the business.

d. The child care facility shall be located on the same property as the home, church or business to which the child care facility is accessory.

e. The child care facility shall provide appropriate fencing, child drop-off and pick-up areas, and other facilities, design elements and operational characteristics for the safety of the children attending the child care facility, as determined necessary by the Planning Commission.

f. The child care facility shall be registered and licensed as required for "child care centers" or "day care centers" under the Child Care Organizations Act (Act 116 of the Public Acts of 1973, as amended).

4. **Planning Commission Modifications**. The Planning Commission may modify the requirements of this Section 15.04.F in circumstances where it determines that the facility as modified will be harmonious with the character of the neighborhood and will not have a negative impact on or injure nearby properties or the use and enjoyment of nearby properties. The Planning Commission may impose reasonable conditions in connection with any such modifications.

G. Hotels and motels.

1. Minimum lot area shall be two (2) acres and minimum lot width shall be two-hundred (200) feet.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet, except that such uses located on waterfront lots shall maintain a rear yard setback of at least twenty (20) feet.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

H. Intensive livestock operations.

1. Minimum lot area shall be forty (40) acres.
2. Any part of the operation, including storage pens, manure storage, feeding areas, and other similar activity areas shall be set back a minimum of five hundred (500) feet from the property lines of an adjacent Residential District or use, or a standing body of water, or flowing stream.
3. No direct runoff from any part of the proposed operation shall be permitted to flow onto any adjacent property.
4. All buildings, structures, enclosed areas, and storage areas for animals or animal waste associated with the operation shall be located at least one hundred (100) feet from a water well.
5. No livestock waste shall be discharged, allowed to seep or otherwise be released into any surface water or groundwater.
6. Manure and urine storage facilities must be of a sufficient capacity, design and maintenance to store all animal waste until such time as such waste can be transported and/or used as fertilizer. Storage facilities for manure and related waste must be designed, sited, constructed, maintained and operated so as to prevent any escape of livestock waste which may cause pollution or degradation of any surface water, groundwater or soil and be constructed and operated in accordance with an approved Animal Waste Management Plan, as required by this subsection.
7. Field storage of manure shall be sited and contained so as not to cause pollution or degradation of surface water, groundwater or soil.

8. No such operation shall be permitted where any lot line is within one thousand (1,000) feet of another intensive livestock operation's lot line.
9. Site plans shall be submitted in accordance with the requirements of Chapter 16 and contain the following additional information:
    a. Locations of principal buildings, manure storage areas, drainage, and truck loading/unloading areas and other areas where accessory activities may be conducted.
    b. Separation distances between all facilities and uses associated with the Confined Feed Lot and: adjacent property lines; on-site water wells; private homes; and any water body or flood plain, including wetlands, streams, or designated county drains.
10. Animal Waste Management Plan: Upon commencement or expansion of an intensive livestock operation, the owner of the operation shall submit a written Animal Waste Management Plan (herein referred to as "the Plan") prepared and signed by a professional agrologist, a person certified to develop such plans (e.g., the Certified Crop Advisor Program of the American Society of Agronomy), or a qualified State agency official (e.g., cooperative extension agent). The Plan shall be prepared using generally accepted agricultural and management practice guidelines including but not limited to adopted procedures prepared by the Michigan Agricultural Commission, Natural Resource Conservation Service (Field Office Technical Guide), and Cooperative Extension Service (Resource Notebook). Such Plan shall be submitted as part of the Special Land Use application and include and conform to the following narrative description including necessary drawings and/or diagrams as applicable:
    a. Runoff control and wastewater management methods (for all areas where livestock density precludes sustaining vegetative growth on the soil).
    b. Design, construction, operation, and maintenance methods for the treatment, storage and transportation of animal waste.
    c. Method and quantities of manure utilization for crop production based on crop nutrient needs and soil nutrient levels.
    d. Specifications on how excess manure that cannot be used for crop nutrients or another beneficial purpose will be treated to minimize environmental threats.

I. Junk yards and salvage yards.

1. Requests for a Special Land Use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall be provided with suitable access to a paved County Primary street to ensure safe, direct transport of salvage to and from the site.

3. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or use property line.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only incidental signs.
5. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
6. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
9. All portions of the storage area shall be accessible to emergency vehicles.
10. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
11. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
13. Minimum site size for such facilities shall be six (6) acres.
14. All fences shall be setback a minimum of fifty (50) feet from any Residential District or use property line.
15. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to between the hours of 8:00 a.m. and 6:00 p.m.
16. The Planning Commission may impose other conditions, such as greenbelts, landscaping, and other items, which have a reasonable relationship to the health, safety and general welfare of the Village. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

J. Kennels.

1. The minimum lot size shall be two (2) acres.
2. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred fifty (150) feet to any adjacent occupied dwelling or any adjacent building used by the public.
3. All principal use activities, other than outdoor dog run areas, shall be conducted within a totally enclosed main building, and shall be escape proof to the extent possible.

K. Marinas.

1. There shall be no above ground storage of gasoline, fuel oil, or other flammable liquids or gases.
2. No building, structure, dock, or parking area which is part of marina or boat launch area shall be located closer than five (5) feet to any lot line, except the setback shall be thirty-five (35) feet to any lot in the R-R and R-1 Districts.
3. Parking facilities shall not be used for the overnight storage of boats, trailers, or other vehicles.
4. There shall be no less than one (1) parking space provided for every boat slip.
5. Buildings shall be designed to minimally obstruct water views.

L. Multiple family dwellings.

1. All buildings and dwelling units shall comply with the applicable provisions of Section 7.04.
2. Boat docks shall be reviewed to assure there is adequate parking, safe boat navigation lanes and controls sufficient to assure that only residents and guests are permitted to use the docks. No portion of the dock shall be within the side yard setbacks, as extended along bottomland ownership boundaries.
3. Parking areas shall have a minimum front yard setback of twenty (20) feet and minimum side and rear yard setbacks of ten (10) feet.
4. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
5. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.

M. Open air businesses.

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. Except in the R-R District, the Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. All open air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.

5. The Planning Commission may require the applicant to furnish a performance bond in accordance with the requirements of this Ordinance to insure strict compliance with any regulation contained herein and required as a condition of Special Land Use approval.
6. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
7. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
8. All lighting shall be shielded from adjacent residential areas.
9. Except as noted in 10, below, no display area shall be located within ten (10) feet of a road right-of-way line.
10. In the case of a plant materials nursery:
    a. Any storage or display areas shall meet all the yard setback requirements applicable to any main building in the District.
    b. All loading activities and parking areas shall be provided on the same premises (off-street).
    c. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

N. Boat launches. This section applies to all boat launches except a private boat launch for use only by the person residing on the premises and guests of the waterfront access parcel upon which such a boat launch is located. A waterfront access parcel is defined in Section 3.31. A boat launch that is leased, rented or otherwise made available for compensation is not a private boat launch and shall be subject to this section.

1. The boat launch site shall contain no more than one (1) ramp and be at least one (1) acre in size. One (1) additional ramp may be permitted for each one (1) acre, or fraction thereof.
2. There shall be no above ground storage of gasoline, fuel oil, or other flammable liquids or gases.
3. No building, structure, dock, or parking area which is part of a boat launch area shall be located closer than five (5) feet to any lot line, except the setback shall be thirty-five (35) feet to any lot in the R-R and R-1 Districts.
4. Parking facilities shall not be used for the overnight storage of boats, trailers, or other vehicles.
5. A minimum of ten (10) parking spaces shall be provided. If, after evaluation of the site, it is found by the Planning Commission that parking will be inadequate to satisfy user demand, the Planning Commission may require additional parking.
6. A seventy-five (75) foot vehicle turn-around shall be provided.
7. Restroom and changing room facilities shall be provided.
8. Trash or dumpster facilities shall be installed, screened and regularly maintained.

9. Fish cleaning or disposal only if facilities specifically designated for that purpose are provided.

O. Public or private campgrounds.

1. Minimum lot size shall be three (3) acres. The lot shall provide direct vehicular access to a public street or road. The term lot shall mean a campground or travel trailer park.
2. Public stations, housed in all-weather structures, containing adequate water outlet, waste container, toilet and shower facilities shall be provided.
3. No commercial enterprise shall be permitted to operate on the lot, except that a convenience shopping facility may be provided on a lot containing more than eighty (80) sites. Such convenience store, excluding laundry and similar ancillary uses, shall not exceed a maximum floor area of one thousand (1,000) square feet.
4. Each lot shall provide hard-surfaced, dust-free vehicle parking areas for site occupant and guest parking. Such parking area shall be located within four hundred (400) feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping).
5. Each site shall contain a minimum of one thousand five hundred (1,500) square feet. Each site shall be set back at least seventy-five (75) feet from any public or private right-of-way or property line.
6. Each travel trailer site shall have direct access to a hard-surfaced, dust-free roadway of at least twenty-four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway. Sites specifically designated for, and only used for, tent camping, need not have direct vehicular access to any street or road.
7. Any open drainage ways must have seeded banks sloped at least 3:1 and designed to properly drain all surface waters into the County drain system, subject to approval by the Drain Commissioner of Oceana County.
8. All sanitary facilities shall be designed and constructed in strict conformance to all applicable County health regulations.
9. A minimum distance of fifteen (15) feet shall be provided between all travel trailers and tents.

P. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

1. No soil, sand, gravel, or other earth material shall be removed from any land within the Village without Special Land Use approval, with the following exceptions:
   a. When the earth removal is incidental to an operation for which a building permit has been issued by the Village;
   b. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
   c. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;

d. The earth removal involves less than three hundred (300) cubic yards;

e. The earth removal is for the purpose of construction of a swimming pool.

f. The soil removal will not be in violation of any other section of this ordinance, other Village ordinance, Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.

2. In addition to the materials required by this Chapter, the application for Special Land Use approval shall include the following:

a. A written legal description of all of the lands proposed for the use.

b. Eight (8) copes of a plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following:

(1) A north arrow, scale, and date;

(2) shading indicating the extent of land area on which mineral removal operations and activities will take place;

(3) the location, width, and grade of all easements or rights-of-way on or abutting the lands;

(4) the location and nature of all structures on the lands;

(5) the location and direction of all water courses and flood control channels which may be affected by the mineral removal operations;

(6) existing elevations of the lands at intervals of not more than five (5) feet;

(7) typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table;

(8) mineral processing and storage areas;

(9) proposed fencing, gates, parking areas, and signs;

(10) roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles;

(11) a map showing access routes between the subject lands and the nearest County Primary Arterial road; and

(12) areas to be used for ponding.

c. A narrative description and explanation of the proposed mineral removal operations and activities; including the date of commencement, proposed hours and days of operation, estimated by type and quantity of mineral materials to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to ensure compliance with the conditions of this subsection.

d. A site rehabilitation plan including the following:

(1) A description of planned site rehabilitation and end-use(s), including methods of accomplishment, phasing, and timing;

(2) a plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five (5) feet; water courses, ponds, or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end-use(s); and

(3) a description of the proposed methods or features which will ensure that the end-use(s) are feasible and will comply with the Pentwater Village Master Plan and all applicable requirements of this Ordinance.

e. The Planning Commission may require an environmental impact statement, engineering data, or other additional information concerning the need for and consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.

3. Each site rehabilitation plan shall be reviewed by the Planning Commission and shall comply with all of the following standards and requirements:

a. Topsoil shall be replaced on the site to a depth of not less than six (6) inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.

b. Final slopes shall have a ratio of not more than one (1) foot of elevation to three (3) feet of horizontal distance.

c. Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.

4. No machinery shall be erected or maintained within fifty (50) feet of any property or street line. No cut or excavation shall be made closer than fifty (50) feet to any street right-of-way line or property line in order to ensure sublateral support to surrounding property. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located in or within two hundred (200) feet of any Residential District.

5. The Planning Commission shall approve routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to nearby properties. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the Planning Commission to minimize dust, mud, and debris being carried onto the public street.

6. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.

7. During activities and operations for the removal of mineral material, no mineral material or other excavated materials shall be left during weekends or overnight in such condition or manner as to constitute a danger to children or others who may enter the removal areas. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one (1) foot of elevation for each two (2) feet of horizontal distance, after the cessation of daily operations, provided, however, that the Planning Commission may allow some lesser daily grading requirement if the applicant provides a substantially constructed and maintained welded wire fence, or fence of equally substantial material, of at least four (4) feet in height, so located that any slopes steeper than one (1) foot of elevation for each two (2) feet of horizontal distance cannot inadvertently be approached by any persons who may enter the removal area.

8. The Planning Commission may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this subsection. Such conditions may include, though need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.

9. An applicant for a permit shall submit a performance bond in accordance with the requirements of this Ordinance, naming the Village of Pentwater as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond shall have such other terms and shall be in such amount as is recommended by the Planning Commission as reasonably necessary to ensure compliance with all of the terms and conditions of this subsection and the permit.

   a. The performance bond shall not be refunded, reduced, or transferred until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the Zoning Administrator and until the Planning Commission has determined that the applicant, or its successor, has fully complied with all of the terms, conditions, site rehabilitation and restoration requirements, and all other matters required of the applicant under the terms of the permit.

   b. The timely and faithful compliance with all of the provisions of the performance bond shall be a condition of any mineral removal operations. In the absence of any such compliance with the terms of the performance bond, or if the same is revoked or it expires or is not renewed, the Planning Commission need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.

Q. Residential dwellings accessory to commercial or office uses. (Amended 8-5-04)

1. The gross floor area for all residential units shall not exceed twice the gross floor area of the commercial or office uses to which they are accessory.
2. Residential dwelling units shall meet the minimum floor area requirements applicable to such units in the R-3 District.
3. Separate parking facilities will be provided for all such dwelling units in accordance with the requirements of Chapter 17.

R. Restaurants with drive-through facilities.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way with a minimum of ten (10) stacking spaces. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through facility.
2. In addition to parking space requirements, at least three (3) parking or waiting spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Any paved area shall have minimum side and rear yard setback of twenty (20) feet.
4. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.
5. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
6. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

S. Retail building supplies.

1. Minimum lot width shall be two hundred (200) feet.
2. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
3. All lighting shall be shielded from adjacent Residential Districts or uses.
4. The storage or materials display areas shall meet all the yard setback requirements applicable to any main building in the District.

T. Retail businesses of ten thousand (10,000) square feet gross floor area or greater conducting business entirely within an enclosed building

1. Public access to the site shall be located at least one hundred (100) feet from any public or private street intersection and not less than fifty (50) feet from the nearest part of any other driveway, as measured from the nearest right-of-way line to the nearest edge of said access.

2. Any principal building shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
3. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
4. No mechanical rooms or loading area shall be located nearer than fifty (50) feet to any Residential District or use property line.

U. Theaters (indoor) and commercial recreation centers, such as bowling alleys, skating rinks, and other similar uses.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.
2. Main buildings shall be set back a minimum of one-hundred (100) feet from any Residential District or use.
3. For uses exceeding a seating capacity of two-hundred and fifty (250) persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
4. Access driveways shall be located no less than one hundred (100) feet from the nearest part of the intersection of any street or any other driveway.

V. Commercial or Public Poles and Towers and Certain Non-Commercial Poles and Towers (Amended 12/8/08)

Commercial or public poles and towers for communications, radio or television, unless exempt under other provisions of this Ordinance, and non-commercial or non-public poles and towers subject to special land use approval, may be approved by the Planning Commission as a special land use upon compliance with all of the following requirements:

1. Any such pole or tower shall be permanently secured to a stable foundation. It shall be grounded to protect against damage from lightning.
2. No signs or other written or graphic matter not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings, except that a name identification sign may be located on an associated building.
3. Any such pole or tower shall be located only in a rear yard or side yard, unless otherwise permitted by the Planning Commission. It shall not be closer to a property line than its height, unless a lesser setback is permitted by the Planning Commission.
4. A commercial or public pole or tower, including accessory buildings or structures, shall be fully enclosed by a sturdy fence, securely gated, and shall have such height as reasonably determined by the Planning Commission, unless it is exempt under Section 3.35.

5. The pole or tower shall not be located, constructed or used so as to have a serious adverse effect on adjacent or nearby land uses.

6. The pole or tower and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations.

7. Poles and towers for commercial or public telecommunications services, including cellular telephone antennas and towers, shall unless otherwise exempt comply with all of the following requirements:

   a. Telecommunications antennas may be required by the Planning Commission to be located on an existing approved tower or other structure if such location is reasonably feasible and practical, in the opinion of the Planning Commission, based upon the facts concerning the existing tower, the area to be served by the proposed antenna and other relevant factors. The applicant shall submit information regarding existing towers within the Village, and within two miles of the proposed tower location, together with such additional information as may be required by the Planning Commission so as to enable the Planning Commission to evaluate the proposed location and the availability of other locations. It is the intent and desire of the Village to minimize the number of towers located within the Village and the intrusion of such towers upon adjacent land uses. The practice of co-locating facilities and using existing structures shall be encouraged and the proliferation of additional towers shall be discouraged, except where necessary to provide effective coverage.

   b. A proposed tower for telecommunications services may be required to be designed, constructed and placed so as to accommodate both the applicant's equipment and also equipment for at least four additional users. The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.

   c. Towers for telecommunications services shall be designed so as to blend, insofar as possible, into the surrounding environment, through the use of color of equipment and architectural treatment, except in those cases where color or treatment may be dictated by state or federal agencies. Such towers shall be of a monopole design unless the Planning Commission determines that an alternative design would be satisfactory.

   d. The Planning Commission may require that telecommunications towers not be illuminated, unless required by state or federal agencies having jurisdiction.

   e. The Planning Commission may require that telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them.

   f. Towers for telecommunications services which are abandoned or unused shall be removed, along with any associated buildings, structures, equipment, foundations, pads and anchors. The property shall be restored to a good

usable condition. Such removal and restoration shall be completed within six months of the ceasing of operations, unless a time extension is granted by the Zoning Administrator. One time extension, of up to six months, shall be permitted if the Zoning Administrator determines that the owner or former operator of the facility is taking active steps to accomplish its removal.

8. If a co-located antenna or antenna array is proposed on an approved tower or an additional building, equipment shelter or other structure to be used for or associated with additional antenna or antenna array are proposed, the addition of the antenna, antenna array or building or equipment shelter shall be subject to site plan review by the Zoning Administrator. The standards for site plan review and approval as stated in Section 16 shall apply, but no public hearing or special public notice shall be required. The Zoning Administrator may impose reasonable conditions upon such site plan review and approval. The Zoning Administrator may elect to refer any such site plan review to the Planning Commission for consideration.

9. The Planning Commission in its reasonable discretion may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any such antenna or tower. Such other terms and conditions may include, though need not be limited to, the following:

   a. The screening or buffering of a pole or tower and any accessory buildings or structures.
   b. The timely removal of unused or unsafe poles or towers or accessory buildings or structures.
   c. The prohibition on the construction or occupancy of dwellings or other buildings or the construction and use of other structures on the lands where the pole or tower is located, or within a specified isolation distance from the pole or tower.
   d. The preservation of existing trees and other existing vegetation not required to be removed for installation of a pole or tower; the reasonable restoration of trees or other vegetation removed or destroyed during the construction or installation of a pole or tower or accessory buildings or structures.

10. This section shall also apply to other poles and towers that are not otherwise provided for in this Ordinance and that are not exempt under other provisions hereof.

11. Where the effect of any of the provisions of this section would be to prevent or no more than the minimum practicable regulations necessary to accomplish the preclude the operation of amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and licensed by the Federal Communications Commission, such amateur radio antenna may be approved by the Planning Commission as a special land use if it is reasonably demonstrated that the application of any of the provisions of this section would be to preclude or prevent the operation of such amateur radio antenna. In granting any such special land use

for an amateur radio antenna, the Planning Commission may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable accommodation of amateur radio communications and such conditions, if any, shall be the Village's legitimate purposes in regulating such amateur radio antennas.

W. Truck and freight terminals.

1. Minimum lot size shall be three (3) acres.
2. The lot location shall be such that at least one (1) property line abuts a paved County Primary street. The ingress and egress for all vehicles shall be directly from said thoroughfare.
3. The main and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.
4. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.

X. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

1. Any such buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
2. Any such building shall comply with the yard setback requirements for main buildings of the District in which it is located.

Y. Vehicle service stations, excluding body shops.

1. Minimum lot area shall be fifteen thousand (15,000) square feet.
2. Minimum lot width shall be one hundred (100) feet.
3. All buildings, structures, and equipment shall be located not less than fifty (50) feet from any right-of-way line and not less than fifty (50) feet from any side or rear lot line abutting a Residential District.
4. No more than one (1) curb opening shall be permitted for every seventy-five (75) feet of frontage (or major fraction thereof) along any street, with a maximum of one (1) per street when located on a corner lot, and two (2) for any other street.
5. No drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection nor more than twenty-five (25) feet to any adjacent Residential District property line. No drive shall be located nearer than fifty (50) feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
6. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and landscaped areas.
7. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with a concrete or bituminous surface. All areas not paved or occupied by buildings or structures shall be landscaped.

8. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifty (50) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street or right-of-way.
9. When adjoining residentially zoned property parking and storage areas shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
10. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight-obscuring wall or fence. No such outside storage area shall exceed an area of two hundred (200) square feet. Outside parking of disabled, wrecked, or partially dismantled vehicles (not to exceed a maximum of five (5) such vehicles) shall not be permitted for a period exceeding ten (10) days.
11. The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the Planning Commission. If such use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the Planning Commission.
12. The lot shall be located such that it is at least three hundred (300) feet from an entrance or exit to any property on which is situated a public library, public or private school, playground, play field, park, church or hospital.
13. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent property.
14. On a corner lot, both street frontage sides shall be subject to all the applicable front yard provisions of this Ordinance.
15. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.

Z. Vehicle wash establishments, either self-serve or automatic.

1. All washing activities must be carried on within a building.
2. Vacuuming activities may not be conducted in any required yard.
3. Sufficient space shall be provided to accommodate all vehicle queuing on the property, so no vehicles are required to wait on an adjoining street to enter the site.

AA. Veterinary hospitals and animal clinics.

1. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling or any adjacent building used by the public,
2. No dog runs and/or exercise areas shall be located in any required front, rear or side yard setback area.

BB. Utility Grid Wind Energy Systems (tower height of at least 66') (Amended 12/8/08)

1. **Construction Codes and Other Standards**. Utility Grid wind energy systems including anemometer towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility Grid wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 *et seq.*), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 *et seq.*), and airport overlay zone regulations.

2. **Safety**. A Utility Grid wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have an automatic transfer switch. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly marked with brightly colored tubing to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

3. All towers or poles must be unclimbable by design or protected by anti-climbing devices such as:
   a. Fences with locking portals at least six (6) feet high;
   b. Anti-climbing devices twelve (12) feet from base of pole;

4. Tubular towers are required.

5. "Up wind turbines" are required.

6. **Visual Impact**. Visual appearance and its impact on nearby dwellings will be limited by using muted colors, industry standard that minimizes visibility, and by using turbines that are consistent in their appearance. No advertising of any kind shall be allowed on the wind turbine.

7. **Setbacks**. The distance between a wind energy system structure and the owner's property lines shall be at least 1-½ times the height of the wind energy system tower including the top of the blade in its vertical position. No part of the wind energy system structure, including guy wire anchors, may extend closer than 25 feet to the owner's property lines.

8. The certified registered engineer and authorized factory representative shall certify that the construction and installation of the conversion system meets or exceeds the manufacturer's construction and installation standards.

9. Maintenance and Operation.
   a. All conversion systems must be maintained and kept in good working order or shall be removed by the property owner. If a Grid Utility Wind Energy Conversion system has not been used for the output of electrical energy for twelve (12) consecutive months, or if it poses an immediate risk to health and safety due to lack of maintenance, poor structural integrity, noise, or vibration it shall be deemed abandoned and shall be disconnected from any electrical grid, dismantled, including the base and any foundations, removed

from the property, and the land shall be restored by the project owner and/or other property owner, at the sole expense of such owner.

b. To ensure that abandoned turbines, foundations, and all electrical distribution components are removed, a bond shall be required at the time of construction for 100% of the cost of removal.

c. A condition of the bond shall be notification by the bond company to the Zoning Administrator when the bond is about to expire or be terminated.

d. The property owner or developer shall provide the Zoning Administrator with a copy of the yearly maintenance inspection as well as a copy of the certificate of insurance for the utility grid wind energy system.

e. Failure to keep the bond in effect while a wind turbine generator or weather testing tower is in place will be a violation of the special land use approval. If a lapse in the bond occurs, the Village will use all available remedies including possible enforcement action and revocation of the special land use approval.

10. Noise levels.

a. The noise level measured at the external property line of the parcel on which the conversion system has been installed shall not exceed 45 dB(A). If the ambient sound pressure level exceeds 45 decibels, the standard shall be ambient dB(A) plus 5 dB(A). After installation of the Utility Grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter.

b. Documentation of sound pressure level measurements shall be provided, at the expense of the applicant, to the Village within 90 days of the commencement of the commercial operation of the project.

c. The applicant shall submit all of the following data at the time of the application that clearly demonstrates that the placement and design of the wind turbine(s) can meet or not exceed the prescribed noise levels.

(1) Wind Rose Chart. This is a chart or graph that describes 12 months of wind data collected from the proposed parcel. This graph or chart will demonstrate direction, duration, and intensity of the wind for the entire parcel (pooled or not).

(2) Site Plan. Site plan to scale that shows the relationship of all dwellings at the external property lines of the proposed wind turbine(s) parcel, as well as illustrating all setback dimensions.

(3) Sound Chart of Sound Data. Sound chart or sound data that shows the sound level in decibels at the base of the turbine tower and at the nacelle. In addition, the reduction of noise of the specific wind turbine, up to and including, 7 rotor diameters away from the base of the wind turbine shall be included. Modeling and analysis shall conform to the IEC 61400 and ISO 9613.

d. Sound Pressure Mediation. Should an aggrieved property owner call into question the sound pressure level of a wind tower, the aggrieved property owner shall follow the following procedure:

(1) Notify the Village in writing regarding concerns about sound pressure and ask the Village to perform a sound pressure test at the aggrieved owner's property line.

(2) The Village will request the aggrieved property owner deposit funds in an amount sufficient to pay for a sound measurement test according to the specifications of 15.04.BB.10.a.

(3) If the sound test indicates that the sound pressure level is within ordinance guidelines, the Village will use the deposit to pay for the sound pressure test.

(4) If the wind tower owner is in violation of the ordinance sound standards, the tower owner shall reimburse the Village for the sound pressure test and take immediate action to bring the wind tower into greater compliance which may include ceasing operation of the wind turbine until ordinance violations are corrected. The Village will refund the deposit to the aggrieved property owner.

11. **Required Lighting**. Any lighting required by the FAA shall be of the lowest intensity and of the slowest pulse allowed.

12. **Applications**. Applications for Utility Grid wind energy systems with a tower height greater than 66 feet shall include:

a. A site plan, drawn to scale, indicating property lines, setback lines, dimensions and location of all structures, and all structures within 100 feet of the applicant's property lines.

b. Information regarding the height of the tower and turbine blade length.

c. Manufacturer's modeling and analysis confirming that the wind energy system will not exceed the maximum permitted sound pressure levels.

d. The location of the wind turbine, guy wires, and accessory structures.

e. Documentation that construction code, tower interconnection (if applicable), electrical code, airport overlay zoning, and safety requirements have been met.

f. The applicant shall provide visual simulations of how the completed project will look from four viewable angles.

g. Proof of the applicant's ongoing liability insurance.

h. Applicant shall provide a copy of that portion of the applicant's lease with the landowner granting authority to install a MET tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment.

i. An aerial photograph indicating property lines and the location of the wind turbine or anemometer and all support apparatus.

j. A survey of the applicant's property, if the applicant has an existing survey.

k. Data from the Michigan DNR must be included that shows migratory routes, nesting sites and or feeding areas of protected avian species indigenous to Michigan and its neighboring states.

l. The applicant shall indicate routes for necessary cabling and grid connections indicating any necessary easements on adjacent property.

CC. Accessory food service as part of a Bed and Breakfast establishment. (Amended 5-12-08)

1. All ordinance requirements for the Bed and Breakfast establishment are met.
2. The operator shall provide copies of Michigan Department of Health food service licensing to the zoning administrator.
3. Food service equipment shall not involve the need to alter the structure or kitchen facilities beyond the scope of an ordinary household. Commercial cooking equipment, such as deep fat fryers, commercial stoves, associated mechanical hoods and venting, or similar equipment, is prohibited.
4. Only one employee is permitted to assist with food service.
5. Accessory Food Service activities shall be clearly incidental and subordinate to the Bed & Breakfast establishment.
6. All aspects of the Accessory Food Service shall be located and conducted within a dwelling unit or in the rear yard of the lot. Outdoor café seating visible from the street is prohibited.
7. There shall be no change in the outside appearance of the building or premises.
8. In addition to the parking required for the Bed and Breakfast operation, at least three (3) additional parking spaces shall be provided for Accessory Food Service guests.
9. Not more than twelve (12) non-guest customers or clients shall be served upon the premises at any one time, and restricted to the hours of 11:00 a.m. to 6:00 p.m.
10. Not more than two (2) delivery vehicles shall access the premises each week.
11. No equipment or process used in the Accessory Food Service shall create noise, odors or smoke in excess of those customarily generated by single-family residential uses in the neighborhood.
12. The principal Bed and Breakfast use must have direct access to a State Trunkline, County Primary, or Village Major Street.
13. The Accessory Food Service operation may only operate between September 1st and June 30th of each year.
14. Food service shall be by reservation only. No walk-in service shall be permitted.

CHAPTER 16
SITE PLAN REVIEW

SECTION 16.01 PURPOSE

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may realize planned objectives in the use of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity.

SECTION 16.02 SITE PLANS REVIEWED

A. In accordance with the provisions of this Chapter, the Planning Commission shall be furnished a Site Plan of the proposed development prior to the establishment of a use or the erection of a building in the Districts and conditions cited below:

1. All Permitted Uses within the R-3, C-1, C-2, C-3, C-4, and LI Districts which include:
   a. The construction of a new building or structure with an enclosed gross floor area of two thousand five hundred (2,500) square feet or greater.
   b. A building addition with an enclosed floor area greater than twenty five percent (25%) of the existing enclosed building gross floor area.
2. Special Land Uses in all Zoning Districts.
3. Planned Unit Developments.
4. Any use within the WD District, except as noted in B, below.
5. Site condominiums in any Zoning District.

B. The following uses will be exempt from Site Plan Review, regardless of the District, unless otherwise requiring a Special Land Use approval: single-family detached and two-family dwellings, farms, roadside stands with less than two-hundred (200) square feet of sales area, state licensed residential family care facilities, family day care homes, home occupations, accessory buildings and uses.

SECTION 16.03 SITE PLAN REVIEW REQUIREMENTS

A. Preliminary Site Plan Review

1. If desired by the applicant, ten (10) copies of a preliminary site plan may be submitted for review by the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
2. Preliminary site plans shall include the following, unless deemed unnecessary by the Zoning Administrator. (Amended 11-13-00)

a. Small scale sketch of properties, streets and use of land within one quarter (1/4) mile of the area, including the zoning of surrounding property.

b. Ten (10) copies of a site plan. The scale shall be not less than 1"-10' for property under two (2) acres and at least 1"=100' for those two (2) acres or more. The following items shall be shown on the plan:

(1) Existing adjacent streets and proposed streets

(2) Lot lines and approximate dimensions

(3) Parking lots and access points

(4) Proposed buffer strips or screening

(5) Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, wetlands, steep slopes, floodplains, and similar natural assets.

(6) Location of any signs not attached to the building

(7) Existing and proposed buildings.

(8) General topographical features including contour intervals no greater than ten (10) feet.

(9) All buildings and driveways within one hundred (100) feet of all property lines.

c. A narrative (shown on the site plan or submitted separately) describing in general terms:

(1) Description of the proposed development.

(2) Approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.

(3) Dwelling unit densities by type, if applicable.

(4) Proposed method of providing sewer and water service, as well as other public and private utilities.

(5) Proposed method of providing storm drainage.

3. The Planning Commission shall review the preliminary site plan and make such recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

B. Final Site Plan Review. If desired by the applicant, a final site plan prepared by a registered professional competent in such matters may be submitted for review without first receiving approval of a preliminary site plan. Applications for final site plan reviews shall include fifteen (15) copies of a site plan containing the following information, unless deemed unnecessary by the Zoning Administrator: (Amended 11-13-00)

1. The date, north arrow, and scale. The scale shall be not less than 1"-10' for property under two (2) acres and at least 1"=100' for those two (2) acres or more.
2. The seal, name, and firm address of the professional individual responsible for the preparation of the site plan, unless waived by the Planning Commission.
3. The name and address of the property owner or petitioner.
4. A location sketch.
5. Legal description of the subject property.
6. The size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
7. Property lines and required setbacks shown and dimensioned.
8. The location of all existing structures, driveways, and parking areas within one hundred (100) feet of the subject property's boundary.
9. The location and dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.
10. The location of all existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), and unloading areas
11. The location, pavement width and right-of-way width of all roads, streets, and access easements within one hundred (100) feet of the subject property.
12. The percent of impervious surfaces, as defined in Chapter 2, relative to the parcel size if the subject property is located within the WD District.
13. The existing zoning and use of all properties abutting the subject property.
14. The location of all existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
15. Size and location of existing and proposed utilities, including any proposed connections to public, or private community sewer or water supply systems.
16. The location and size of all surface water drainage facilities.
17. Existing and proposed topographic contours at a minimum of five (5) foot intervals.
18. The approximate size (in acres) of significant natural features, such as wetlands and woods, located on the site, if applicable.
19. Mitigation plans, if deemed necessary by the Planning Commission, to compensate for the loss of significant natural features, including but not limited to wetlands, floodplain areas, and tree stands.
20. Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.

SECTION 16.04 APPLICATION AND REVIEW

A. One (1) copy of a completed application form, one large scale hard-copy drawing, and an electronic copy of the proposed site plan shall be submitted to the Zoning Administrator. The required application fee shall be paid and the required zoning escrow deposit shall be made at the time of submission of the application and the site plan.

B. The Planning Commission shall have the responsibility and authorization to approve, disapprove, or approve subject to conditions, the site plan, in accordance with the provisions of this Chapter and the purpose of this Ordinance.

C. Any conditions or modifications desired by the Planning Commission shall be recorded in the minutes.

D. Three (3) copies of the final approved site plan shall be signed and dated by the Secretary of the Planning Commission and the applicant. One (1) of these approved copies shall be kept on file by the Clerk, one (1) shall be kept on file by the Zoning Administrator, and one (1) shall be returned to the petitioner or his designated representative.

E. Each development shall be under construction within one (1) year after the date of approval of the site plan, except as noted in the following:

1. The Planning Commission may grant one (1) six (6) month extension of such time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the site plan.
2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the site plan approval shall be null and void.

SECTION 16.05 PLAT REQUIREMENTS

In those instances in which Act 591, Public Acts of 1996, as amended, the Land Division Act, is involved, the owner shall, after Site Plan approval, submit the preliminary and final plats to the proper officer in conformance with Act 591, and in accordance with all other applicable codes, acts and ordinances. Such plats shall remain in conformance with the approved Site Plan.

SECTION 16.06 ADMINISTRATIVE FEES

Any Site Plan application shall be accompanied by a fee, in an amount to be established by the Village. Such fee shall be for the purpose of payment for the administrative costs and services expended by the communities in the implementation of this Chapter and the processing of the application. Such fee may be used to reimburse another party retained by the Village to provide expert consultation and advice regarding the application. No part of such fee shall be returnable.

SECTION 16.07 CHANGES IN THE APPROVED SITE PLAN

Changes to the approved site plan shall be permitted only under the following circumstances:

A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to an approved site plan.

B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

1. Change in the building size, up to five percent (5%) in total floor area.
2. Movement of buildings or other structures by no more than ten (10) feet.
3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
4. Changes in building materials to a comparable or higher quality.
5. Changes in floor plans which do not alter the character of the use.
6. Changes required or requested by the Village, or any County, State, or Federal regulatory agency in order to conform to other laws or regulations.

C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.

SECTION 16.08 REVIEW STANDARDS

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

A. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

B. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.

C. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the Village.

D. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or

greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

E. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.

F. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.

G. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.

H. All streets and driveways shall be developed in accordance with the Pentwater Subdivision Control Ordinance, the Oceana County Road Commission, or Michigan Department of Transportation specifications, as appropriate, unless developed as a private road in accordance with the requirements for private roads in this Ordinance. Except that the Planning Commission may impose more stringent requirements than those for the Road Commission or Department of Transportation with respect to driveway location and spacing. In addition, sidewalks may be required if determined to be necessary or appropriate for pedestrians and non-motorized vehicles.

I. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.

J. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution and preserve the rural and small town character of the Village.

K. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from Residential Districts or public streets, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height. The finished side of any wall, fence, or other screen shall face adjacent properties.

L. Entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of entrances to and exists from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.

M. Site plans shall conform to all applicable requirements of County, State, Federal, and local statutes and ordinances. Approval may be conditioned on the applicant receiving necessary County, State, Federal, and Village permits before final site plan approval or an occupancy permit is granted.

N. Appropriate fencing may be required by the Planning Commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.

O. The general purposes and spirit of this Ordinance and the Master Plan of the Village shall be maintained.

SECTION 16.09 CONDITIONS OF APPROVAL

A. As part of an approval to any site plan, the Planning Commission, as applicable, may impose any additional conditions or limitations as in their judgment may be necessary for protection of the public interest.

B. Conditions imposed shall be those necessary to:

1. meet the intent and purpose of the Zoning Ordinance,
2. relate to the standards established in the Ordinance for the land use or activity under consideration,
3. insure compliance with those standards,
4. protect the general welfare,
5. protect individual property rights, and
6. ensure that the intent and objectives of this Ordinance will be observed.

C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.

D. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.

E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

F. The Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.

SECTION 16.10 APPEAL

If any person shall be aggrieved by the action of the Planning Commission, appeal in writing to the Board of Appeals may be taken within twenty-one (21) days after the date of such action. The Board of Appeals shall fix a time and place for a public hearing to be published in a newspaper prior to the hearing. All interested parties shall be afforded the opportunity to be heard thereat. After such hearing, the Board of Appeals shall affirm or reverse the action of the Planning Commission, stating its findings and the reasons for its action and a written copy of such findings, reasons, and action shall be given to the appellant.

CHAPTER 17
PARKING REQUIREMENTS

SECTION 17.01 SCOPE

In all Zoning Districts, off-street parking facilities, including all parking spaces, maneuvering areas, and access points for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such facilities shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

SECTION 17.02 LOCATION OF PARKING

(Amended 11-21-2018)

The off-street parking required by this Chapter shall be provided in accordance with the following requirements.

A. Single and Two-Family Dwellings: Except in the C-3 District, off-street parking facilities required for single and two family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Chapter.

B. Multiple Dwellings: Except in the C-3 District, off-street parking facilities for multiple family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as defined in this Chapter. Uncovered parking spaces in the R-3 District shall not be located nearer than ten (10) feet to any main building.

C. Manufactured Home Parks: The off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site. Each parking space must meet the minimum area requirements of this Chapter.

D. C-3 Parking: With the exception of residential uses, the off-street parking requirements of Section 17.06 do not apply in the C-3 District. Any parking areas provided, however, shall meet the other applicable requirements of this Chapter. Residential uses within the C-3 district shall meet the requirements of this Section and Section 17.06 for determining the location of parking areas and the required number of spaces.

E. Off-Site Parking: For any land uses not specified in Sections 17.02A, B or C, and for any C-3 District residential use, provided the spaces are under the control of the owner, required off-street parking spaces may be located on each site, or alternatively, such required off-street parking may be located in approved parking lots or may be Designated Spaces (as defined in Section 17.06.D), if such lots or Designated Spaces are located within five hundred (500) feet of the site and are readily accessible to such site.

SECTION 17.03 PARKING LOT REQUIREMENTS

A. All parking facilities, access driveways, and commercial storage areas, including a single-family dwelling with Special Land Use for Bed and Breakfast but excluding those for single and two-family dwellings outside manufactured home parks, shall be constructed with a pavement having an asphalt or concrete binder, or with a minimum of six (6) inches of compacted gravel, or other equivalent material.

B. All parking and maneuvering areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area.

C. In all zoning districts, the pavement surfacing of the portion of any driveway between the right-of-way and the edge of the roadway surface shall be hard surfaced if the roadway is hard surfaced.

D. Any illumination for parking lots shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light on other than normal parking hours each day. The source of illumination in all parking lots abutting a Residential District or use shall not be higher than fifteen (15) feet above the parking lot surface.

E. When a required non-residential parking lot is situated on a parcel which adjoins a Residential District, abutting directly or across a roadway, the respective side or rear yard in which said parking is located shall contain a minimum setback of twenty (20) feet excluding any parking or drives, unless a greater setback is required by any other provision of this Ordinance.

F. Required non-residential parking lots abutting a Residential District or use shall be effectively screened from neighboring Residential Districts and uses by a decorative fence or wall, or a landscaped equivalent.

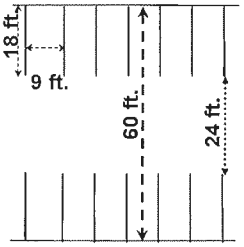
G. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.

H. Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.

I. Plans for the layout of off-street parking facilities shall be in accordance with the Parking Space Dimensions table and the following minimum regulations. The minimum parking space dimensions for a layout not provided for in the regulations shall be nine (9) feet in width, eighteen (18) feet in length, and one hundred and sixty-two (162) square feet in area. Dimensions for Designated Spaces are regulated in Section 17.06.D. (Amended 11-21-2018)

Parking Pattern	Aisle Width 2 Way	Aisle Width 1 Way	Parking Space Width[1]	Parking Space Length[2]	Total Width[3] 1 Way	Total Width[3] 2 Way
Parallel	18 ft.	12 ft.	9 ft.	25 ft.	30 ft.	36 ft.
30-75%	24 ft.	12 ft.	9 ft.	21 ft.	48 ft.	60 ft.
76-90%	24 ft.	15 ft.	9 ft.	18 ft.	55 ft.	60 ft.

1 Measured perpendicular to the longitudinal space centerline.
2 Measured along the longitudinal space centerline.
3 Total width of two tiers of parking spaces plus maneuvering lane



Parking Space Dimensions

SECTION 17.04 PARKING LOT PLANS

A. The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance and such construction shall be completed and approved by the Zoning Administrator before actual use of the property as a parking lot and before a Certificate of Occupancy is issued.

B. Plans for the development of any parking lot must be submitted to the Zoning Administrator, prepared at a scale of not less than one (1) inch equals fifty (50) feet and indicating existing and proposed grades, drainage, pipe sizes, dimensions of typical parking spaces, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used, and the layout of the proposed parking lot.

C. The plans are to be prepared in a presentable form by person or persons competent in such work and shall conform to the provisions of Section 16.03.

SECTION 17.05 PARKING RESTRICTIONS

A. In any District, it shall be unlawful to use required off-street parking areas for the storage or parking of vehicles in excess of twenty-four (24) hours, except as may be permitted for a commercial use or vehicles utilized on a regular basis by the residents or owners of the lot on which the parking is located.

B. It shall be unlawful for any person to park or store any motor vehicle without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of such property. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying such vehicle for sale, except in approved and licensed car sales lots.

C. After the effective date of this Ordinance it shall be unlawful on lots or parcels of less than one and one-half (1½) acres for the owner, holder, occupant, lessee, agent, or trustee of any lot in a Residential District to permit or allow the open storage or parking, either day or night, thereon of trucks (over one (1) ton), semi-trucks and trailers, manufactured homes (other than for residential purposes, where otherwise permitted), construction equipment, and/or any other similar equipment or machinery used for commercial purposes for a period exceeding forty-eight (48) hours. However, the owner, tenant, or lessee of a farm may openly store the machinery and equipment used on his farm; and equipment necessary to be parking overnight on a lot, parcel or tract of land during construction work thereon shall be excepted from this restriction.

D. No vehicle parking, storage, or display shall be permitted within any road right-of-way other than in Designated Spaces as provided in Section 17.06.D. Designated Spaces shall not be considered on-street parking for purposes of this Chapter 17. On-street parking is permitted in locations specifically designated by public authority for on-street parking. On-street parking spaces shall not be counted toward the required parking for any use. (Amended 11-21-2018)

SECTION 17.06 OFF-STREET PARKING REQUIREMENTS

(Amended 11-21-2018))

A. The Planning Commission may defer construction of a portion of the required number of parking spaces for non-residential uses if the following conditions are met:

1. Areas shown for deferred parking shall be shown on a site plan and shall be of sufficient area to permit the construction of the total number of parking spaces required by this Section. Such areas shall not be used for any other purpose required by this Ordinance (such as landscaped buffers, etc.) and shall be kept open.
2. Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the Zoning Administrator based on parking needs and shall require the submission and approval of an amended site plan, as required by Chapter 16.

B. Required off-street parking spaces are noted in the tables below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Zoning Administrator considers similar in type.

C. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Residential	
Single-family dwellings	Two (2) for all districts except the C-3 District
Two-family dwellings	One (1), plus one (1) for each dwelling unit for all districts except the C-3 District
Multiple family dwellings	Two (2) for each dwelling unit for all districts except the C-3 District
Single family, Two family and Multiple family dwellings in the C-3 District	Two (2) for all dwellings; except that in a mixed-use building (containing commercial and residential uses) a dwelling located above the main commercial street (Hancock) shall require one (1) for each dwelling unit, plus one (1) additional for each dwelling unit with more than two (2) bedrooms
Institutional	
Group day care homes and group foster care homes	One (1) space for each four (4) clients
Churches, theaters, assembly areas, auditoriums, gymnasiums	One (1) space for each five (5) seats or each ten (10) feet of pew length or one (1) space for and each four (4) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Schools, elementary and middle	Two (2) spaces for each three (3) employees, plus amount required for auditorium or gymnasium seating
Schools, secondary, trade, industrial, and institutions of higher learning	One (1) space for each eight (8) students, plus one and one-half (1½) spaces for each classroom, plus amount required for auditorium or gymnasium seating

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Commercial	
Vehicle wash establish. (self-service or automatic)	One (1) space for each five (5) stalls
Bed & Breakfast	One (1) space per guest room plus two (2) spaces for principal residence of the operator
Beauty/barber shop	Two (2) spaces for each chair
Bowling alleys	Four (4) spaces for each bowling lane plus required spaces for each accessory use
Assembly halls without fixed seats	One (1) space for each three (3) persons allowed within the maximum occupancy load established by any applicable codes or ordinances
Restaurants - without drive-through facilities	One (1) space for each one hundred (100) square feet UFA or one (1) space for each two (2) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	One (1) space for each one hundred (100) square feet of UFA or one (1) space for each one and one-half (1½) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Vehicle service stations	One (1) space for each service stall, plus one (1) space for each pump island
Personal service establishments not otherwise specified	One (1) space for each fifty (50) square feet UFA
Furniture, appliance and household goods retail sales	One (1) space for each one thousand (1000) square feet UFA

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Commercial	
Funeral homes and mortuary establishments	One (1) space for each fifty (50) square feet UFA
Open air businesses	One (1) space for each two hundred (200) square feet of indoor UFA plus one (1) space for each one thousand (1000) square feet of outdoor display area
Marina	One (1) space for every two (2) boat slips
Retail stores not otherwise specified	One (1) space for each two hundred (200) square feet UFA
Hotels and motels	One (1) space for each guest room, plus required spaces for any accessory uses
Video rental stores	One (1) space for each one hundred (100) square feet UFA

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Offices	
Banks, credit unions, savings and loan associations and other similar uses	One (1) space for each one hundred and fifty (150) square feet UFA plus two (2) spaces for each non-drive through automatic teller machine
Offices not otherwise specified	One (1) space for each three hundred (300) square feet UFA
Medical and dental offices and clinics	One (1) space for each seventy-five (75) square feet of waiting room area plus one (1) space for each examining room, dental chair, or similar use area

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Industrial	
Manufacturing, processing, and research establishments and Industrial uses not otherwise specified	One (1) space for each one thousand (1000) square feet GFA plus those spaces required for offices located on the premises
Warehouses and wholesale establishments	One (1) space for each two thousand (2000) square feet GFA plus those spaces required for offices located on the premises

D. Designated Spaces: If a Village-owned parking space is designated by a contractual arrangement for a particular use or for use by a particular owner (a "Designated Space"), such a Designated Space shall be eligible to satisfy off-street parking requirements under Section 17.02. Designated Spaces, if determined by the Village Zoning Administrator to be safely designed and similar in size to other Village public spaces, may qualify as off-street parking spaces and shall in that case not be subject to Section 17.03.I. Restricted uses of a Designated Space shall be clearly marked by appropriate signage.

SECTION 17.07 OFF-STREET LOADING REQUIREMENTS

A. On the same premises with every building or structure 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. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.

B. In the C-1 and C-2 Districts all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from off-street parking requirements.

C. Loading spaces for non-residential uses in Residential Districts shall be located in the rear yard in the ratio of at least five (5) square feet per front foot of building and shall be computed separately from off-street parking requirements.

D. LI District

1. In the LI District at least one (1) loading space shall be provided. All loading spaces shall be at least ten feet by fifty feet (10 x 50), or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.

2. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.

E. All dedicated loading spaces shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless service.

CHAPTER 18
ZONING BOARD OF APPEALS

SECTION 18.01 AUTHORIZATION

In order that the objectives of the Ordinance may be more fully and equitably achieved, that there shall be provided a means of competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public be secured, and that justice be done, there is hereby established a Board of Appeals.

SECTION 18.02 MEMBERSHIP - TERMS OF OFFICE

A. The Board of Appeals of the Village of Pentwater shall consist of seven (7) members appointed by the Village Council. (Amended 9-10-07)

1. The first member of such Zoning Board of Appeals shall be a member of the Planning Commission; the second member may be a member of the Village Council, provided, however, such member of the Village Council shall not serve as chairperson of the Zoning Board of Appeals; and the additional members shall be selected from electors residing in the Village. (Amended 5-12-08)
2. The additional members shall not be elected officers or employees of the Village Council. The additional members shall be appointed for three (3) year terms; the Planning Commission and Village Council representatives, who shall not be the same member, shall only serve while holding membership on those respective bodies.

B. The Village Council may appoint no more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals.

1. An alternate member may be called to serve as a regular member if the regular member will be unable to attend one or more meetings or if the regular member has abstained for reasons of conflict of interest.
2. The alternate member shall serve in the case until a final decision is made.
3. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

SECTION 18.03 DUTIES AND POWERS

The Board of Appeals shall have the following specified duties and powers:

A. Appeals: The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Village in the administration of this Ordinance.

B. Interpretation: The Board of Appeals shall have the power to:

1. Hear and decide upon requests for the interpretation of the provisions of this Ordinance; and

2. Determine the precise location of boundary lines between zoning districts upon appeal from a decision by the Zoning Administrator upon said subject.

C. Variances: The Board of Appeals shall have the power to authorize specific variances from the requirements of this Ordinance.

D. The Board of Appeals shall not have the authority to approve any sign type which is not permitted by this Ordinance within a zoning district.

SECTION 18.04 MEETINGS

Meetings shall be open to the public, and shall be held at the call of the Chairman and at such other times as the Board of Appeals shall specify in its rules of procedure. No less than a majority of the regular members of the Zoning Board of Appeals must be present to constitute a quorum for the conduct of business. (Amended 5-12-08)

SECTION 18.05 APPLICATIONS AND HEARINGS

A. An application to the Board of Appeals shall consist of a completed application form, provided by the Village, a fee as established by the Village Council, which shall be paid to the Clerk at the time of filing, and a scaled drawing with sufficient detail to indicate the nature and necessity of the request. The Board of Appeals may request additional detail on the drawing or other information which they deem necessary to make a decision on the application.

B. Upon receipt of a complete application, the Secretary shall set a date for a public hearing and shall cause notice of the public hearing to be provided in accordance with the requirements of Section 19.19 of this ordinance. (Amended 5-12-08)

SECTION 18.06 DECISIONS

A. The concurring vote of the majority of the membership of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of an administrative official or body, to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance. Notwithstanding the foregoing, however, the affirmative vote of two-thirds of the members of the Zoning Board of Appeals shall be necessary to grant a use variance under the terms of Section 18.08.B. (Amended 5-12-08)

B. The Board of Appeals shall return a decision upon each case within a reasonable time after the scheduled hearing has been held, unless an extension of time is agreed upon with the applicant and the Board.

C. Any decision of the Board shall not become final until minutes of the meeting at which final action on the request was taken are officially approved and adopted by the Board of Appeals or the Board certifies its decision in writing. (Amended 9-10-07)

D. The decision of the Board of Appeals shall be final; however, any person having an interest affected by any such decision shall have the right of appeal to the Circuit Court on questions of law and fact.

E. Each decision entered under the provisions of this Chapter shall become null and void unless the construction or other action authorized by such decision has been started within one (1) year after the decision was made and is being carried forward to completion or occupancy of land, premises, or buildings.

F. No application which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first ordered by the Board.

SECTION 18.07 APPEALS

(Amended 9/10/07)

A. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decisions or determination made by the Planning Commission or other official or body charged with the administration of this Ordinance.

B. Appeals to the Board of Appeals may be taken by any person aggrieved, or by an officer, department or board of the Village. Applications for appeals shall be filed within twenty-one (21) days after the date of the decision that is the basis of the appeal. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Board of Appeals all papers constituting the record of the action being appealed.

C. Upon receipt of the written request for an appeal, a notice stating the time, date and place of the public hearing shall be provided in accordance with the requirements of the Zoning Act.

D. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after the notice of the appeal has been filed that, for the reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Appeals or, on application, by the Circuit Court when due cause can be shown.

SECTION 18.08 REVIEW STANDARDS FOR VARIANCES

A. Non-Use Variance: A non-use or dimensional variance may be allowed by the Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed.
2. Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.
3. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable.

4. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
   a. exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;
   b. exceptional topographic conditions;
   c. by reason of the use or development of the property immediately adjoining the property in question; or
   d. any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary.
5. That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6. That the variance is not necessitated as a result of any action or inaction to the property prior to the variance request by the applicant or his/her representative.
7. (Amended 9/10/07)

B. Use variance: A use variance may be allowed by the Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing and that ALL of the following conditions are met:

1. That the building, structure, or land cannot yield a reasonable return if required to be used for a use allowed in the zone district in which it is located;
2. That there are unnecessary hardships in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
   a. exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;
   b. exceptional topographic conditions;
   c. by reason of the use or development of the property immediately adjoining the property in question; or
   d. any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary.
3. That the proposed use will not alter the essential character of the neighborhood.
4. That the variance is not necessitated as a result of any action or inaction to the property prior to the variance request by the applicant or his/her representative.
5. Approval of a use variance shall require an affirmative vote by two-thirds (2/3) of the membership.

C. Prior to Board of Appeals decision on a request for a use variance, the Board of Appeals may request that the Planning Commission consider such request and that the Commission forward a report to the Board of Appeals.

1. The report of the Planning Commission may include the opinion of the Commission as to whether or not the property may be reasonably used for a use permitted under the existing zoning classification, and, whether or not the request may alter the essential character of the neighborhood.
2. For this report the Planning Commission shall consider the Master Plan, the ability of the property owner to use the property for a use already permitted under the existing zoning classification, and the effect of the request on the essential character of the neighborhood.

CHAPTER 19
ADMINISTRATION AND ENFORCEMENT

SECTION 19.01 REPEAL OF PRIOR ORDINANCE

The Zoning Ordinance previously adopted by the Village of Pentwater on May 9, 1994, and all amendments thereto are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

SECTION 19.02 INTERPRETATION

A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare.

B. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the erection or use of land and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any said rules, regulations, permits, or easements, then the provisions of this Ordinance shall govern.

C. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

SECTION 19.03 REMEDIES AND ENFORCEMENT

A. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance, per se.

B. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction.

C. The civil fine for a municipal civil infraction shall be as noted in the Village of Pentwater Municipal Civil Infraction Ordinance.

D. For purposes of this Section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

E. The Village Council for the Village of Pentwater, or the duly authorized representative shall enforce the Ordinance. The provisions of the Ordinance shall be administered by the Zoning Administrator. The Village Council may, by its attorney, institute injunction, mandamus, abatement or other appropriate legal action or proceedings to prevent, enjoin, abate or remove any violation of this Ordinance. The Village President, or the Building Official, Zoning Administrator or Ordinance Enforcement Officer appointed by the Village, is authorized to issue citations for violations of provisions of this Ordinance which are designated to be municipal civil infractions, if such person has reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the infraction. (Amended 5-12-08)

F. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

SECTION 19.04 PUBLIC NUISANCE, PER SE

Any building or structure which is erected, repaired, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

SECTION 19.05 PERFORMANCE GUARANTEES

A. The Zoning Administrator, Planning Commission, Zoning Board of Appeals, and the Village Council are empowered to require a performance guarantee in the form of a bond, cashier's check, cash, or other suitable negotiable security, in an amount equal to the estimated cost of improvements associated with the project which is the subject of such guarantee.

B. Such performance guarantee shall be deposited with the Clerk at the time of the issuance of the permit by the Village authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site plan. If said improvements are not completed such security shall be forfeited, either in whole or in part.

C. The Village shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator.

D. In cases where the improvements indicated with the approved site plan have not been completed in accordance with the approval granted, the amount of the aforementioned performance guarantee may be used by the Village to complete the required improvements. The balance, if any, shall be returned to the depositor.

SECTION 19.06 FEES

A. The Village Council shall, by resolution, establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during regular office hours at the Village Hall. Such fees may be changed from time to time by resolution of the Village Council.

B. The applicant shall pay all applicable fees upon the filing of any application, proposed site plan, or any other request or application under this Ordinance for which a fee is required.

C. In addition to regularly established fees, the Village Council in its discretion may also require an applicant to submit to the Village an amount of money determined by the Village to be a reasonable estimate of the fees and costs which may incurred by the Village in reviewing and acting upon any such application or related matters. Such estimated fee and costs shall be submitted prior to any Village review of an application or request.

D. The Village shall not charge fees or assess costs to the applicant for the time expended by Village employees (except as authorized under appropriate provisions of the Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Village during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part.

E. Such costs and expenses to be charged or assessed to the applicant, for reimbursement of the reasonable costs and expenses, may include but shall not be limited to Village attorney fees, engineering fees, costs and fees for services or outside consultants, fees and expenses of other professionals who may assist the Village, costs and fees for studies and reports pertaining to the matters in question, special meeting costs, and other reasonable costs and expenses.

F. Any monies paid or deposited by an applicant which are not used or spent by the Village shall be refunded to the applicant.

SECTION 19.07 PERMITS

(Amended 4-14-14)

A. No dwelling, building or structure subject to the provisions of this Ordinance shall be erected, altered, enlarged or moved upon any lot or premises until a zoning permit has been issued by the Zoning Administrator in conformity with the provisions of this Ordinance. Such permit shall be non-transferable and shall be good for one (1) year with the right of renewal in the discretion of the Zoning Administrator upon proper application and must be granted before any work of excavation, construction, alteration, enlargement or movement is begun.

B. All applications for a zoning permit shall be submitted to the Zoning Administrator and shall be accompanied by a site plan as set forth in Chapter 16 of this Ordinance titled Site Plan Review.

C. For each zoning permit issued a fee shall be charged as set forth in Chapter 19, Section 19.06 of this Ordinance. No zoning permit shall be valid until the required fee has been paid. Zoning permits may be renewed for a second year at no cost when no significant changes of plans has occurred. When significant changes, if determined by the Zoning Administrator, have occurred a new applicant for zoning permit and fee shall be required.

D. Unless a longer period of time is granted during the review process, projects must be finished within one year of zoning permit approval. Projects commenced but unfinished at the end of the timeframe are declared to be nuisances, per se, and the Village Council for the Village of Pentwater may pursue remedies and enforcement per Section 19.03. If continued and substantial progress is demonstrated prior to permit expiration, the Zoning Administrator may renew a zoning permit and extend the timeframe six (6) months for project finalization, if a request is submitted by the applicant. If substantial progress is not made within the extended timeframe and a second renewal is not requested, Section 19.03 shall apply.

E. Nothing in this Section of the Zoning Ordinance shall be construed as to prohibit the applicant or their agent from preparing their own plans and specifications, provided the same are clear and legible and adhere to the required information as set forth in this Ordinance.

F. Permit Revocation

1. The Zoning Administrator shall have the authority to revoke or otherwise cancel any\zoning permit issued in cases of failure and/or neglect to comply with any of the provisions of the Ordinance, conditions of approval, or in the case of false statement or misrepresentation made by the applicant.
2. Zoning permits may be revoked for projects commenced but unfinished within the timeframe prescribed in Section 19.07.D, unless renewals are issued.
3. Written notice of the revocation of cancellation of the zoning permit shall be provided by first class mail or personal delivery by the Zoning Administrator to the applicant or holder of the permit as soon as practicable, but in no case more than five (5) days after the revoking of canceling of the permit.
4. The applicant or holder of the zoning permit shall have the right of appeal to the Zoning Board of Appeals in accordance with the provisions of Section 8.07 of the Ordinance.

G. Within ten (10) days after receipt of the completed zoning permit application, the Zoning Administrator shall issue a zoning permit to the applicant or their duly authorized agent provided the dwelling, building or structure and the land used thereof as set forth in the application are in conformity with the provisions of this Ordinance, and when such permit is refused, the Zoning Administrator shall state such refusal in writing with cause. The Zoning Administrator shall file one (1) copy of the application, with proper notations thereon or attached thereto relative to his/her approval or disapproval including the date thereof as record. A copy of the application shall be returned to the applicant with similar notation.

H. Accessory buildings when erected at the same time as the principal building on a lot and shown on the application thereof shall not require a separate zoning permit.

SECTION 19.08 ZONING DISTRICTS

In order to more effectively protect and promote the general welfare and accomplish the aims and objectives of the Pentwater Village Master Plan, the Village of Pentwater is divided into Zoning Districts of such number, boundaries, shape, and area that are deemed most suitable to provide for the best development of the Village, while protecting the common rights and interests of all through associated regulations and restrictions. For the purposes of this Ordinance, the Pentwater Village is hereby divided into the following Zoning Districts:

RR	Rural Residential District
R-1	Single-Family Residential District
R-2	Single-Family Residential District
R-3	Single-Family, Two-Family, and Multiple Family Residential District
R-4	Lakefront Multiple Family Residential District
R-O	Residential-Office District
C-1	Neighborhood Commercial District
C-3	Central Business District
C-4	Hotel Resort District
MHP	Manufactured Home Park District
LI	Light Industrial District
PUD	Planned Unit Development

SECTION 19.09 THE ZONING MAP

A. The locations and boundaries of these descriptions are hereby established on a map entitled "Pentwater Village Zoning Map" which is hereby adopted and declared to be a part of this Ordinance.

B. Regardless of the existence of copies of the zoning map which may be made or published, the official Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning status in the Village. A record is to be kept by the Zoning Administrator of all changes made or required to be made to the Official Zoning Map.

C. The Official Zoning Map shall be identified by the signature of the Zoning Administrator, attested to by the Clerk.

D. The Official Zoning Map is to be kept up to date, accessible to the general public, and shall be the final authority as to the current Zoning District status of all land and buildings in the Pentwater Village which are subject to the provisions of this Ordinance.

SECTION 19.10 DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of Zoning Districts as shown on the Zoning Map, the following rules shall apply:

A. Where the boundaries are indicated as approximately following the street, alleys, or highways, the centerlines of said streets, alleys, or highways, or such lines extended shall be construed to be such boundaries.

B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following municipal boundary lines shall be construed as following such municipal lines.

D. Boundaries indicated as approximately following railroad lines shall be construed to be the centerline of the railroad right-of-way.

E. Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distances therefrom as indicated on the official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official Zoning Map.

F. Boundaries following the shoreline of stream, lake, or other body of water shall be construed to follow such shoreline, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.

G. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Zoning Administrator.

SECTION 19.11 ZONING OF VACATED AREAS

Whenever any street, alley or other public way within the Village is vacated by official governmental action, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley, or public way, such lands shall automatically be subjected to the same zoning regulations as are applicable to the adjoining lands.

SECTION 19.12 ZONING OF FILLED LAND

Whenever any fill is placed in any lake or stream, after all required permits are obtained, the land thus created shall automatically and without further governmental action thenceforth acquire and be subjected to the same zoning regulations under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

SECTION 19.13 ZONING DISTRICT CHANGES

When District boundaries hereafter become changed, any use made non-conforming by such change may be continued, subject to the provisions of this Ordinance.

SECTION 19.14 STOP WORK ORDERS

A. Notice to Owner: Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The Stop Work Order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.

B. Unlawful Continuance: Any person who shall continue to work in or about the structure, land or building, or use after having been served with a Stop Work Order, except such work as that person is directed to perform to remove a violation or correct an unsafe condition, shall be in violation of this Ordinance.

SECTION 19.15 PROPERTY SURVEYS

If the Zoning Administrator in the performance of his duties under this Ordinance (or the Planning Commission, Zoning Board of Appeals or Village Council pursuant to their zoning review and approval powers under this Ordinance) shall deem it necessary that a survey be done by a professional surveyor or engineer for property at issue (including a written drawing and stakes set on the property boundaries or corners) in order to insure that all requirements of this Ordinance will be met, such survey and related information may be required by the Village and shall be paid for and provided by the property owner or applicant and no building permit or other Village permit(s) shall be issued or approved until and unless such survey and related information has been provided to the Village.

SECTION 19.16 ZONING ADMINISTRATOR

A. The Village Council shall appoint a Zoning Administrator. The Village Council may also appoint a Deputy Zoning Administrator authorized to act during periods of absence of the Zoning Administrator, or assist the Zoning Administrator with his responsibilities, with the same powers as granted the Zoning Administrator.

B. The Zoning Administrator and Deputy shall not be members of the Village Council, Planning Commission, or Zoning Board of Appeals.

C. The Zoning Administrator and Deputy shall be appointed for such term and subject to such conditions and at such rate of compensation as the Village Council determines.

D. The Village Council may instruct the Zoning Administrator in writing to initiate an enforcement action or other legal action as may be permitted by this Ordinance. The Zoning Administrator shall keep a record of every written complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each such complaint. These records shall be a matter of public record.

E. Reports

1. The Zoning Administrator shall prepare and file an annual report to the Village Council on the operation of the Zoning Ordinance including recommendations as to the enactment of any changes, amendments, or supplements to the Zoning Ordinance.

2. The Zoning Administrator shall issue to the Village Council a semi-annual report on permits issued, variances issued, special use permits and complaint of violation and the action taken thereon.

F. Duties and Responsibilities

1. The Zoning Administrator(s) shall administer the provisions of this Zoning Ordinance.
2. The Zoning Administrator is authorized to review applications for permits as set forth in this Ordinance and to grant or deny such permits.
3. The Zoning Administrator is to refer all matters that relate to the Village Council, Planning Commission, or Zoning Board of Appeals as set forth in this Ordinance.
4. The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to properly administer and enforce this Ordinance.

G. Should the Zoning Administrator have a personal or financial interest in the use of land, or the construction of any dwelling, building or structure subject to the provisions of this Ordinance, the Deputy Zoning Administrator shall examine the plans, inspect such dwelling, building or structure and issue the necessary permits, approvals and certificates.

SECTION 19.17 SEVERABILITY

The Ordinance and various Chapters, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any Chapter, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

SECTION 19.18 ENACTMENT

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven (7) days following publication of a "Notice of Adoption" in a newspaper circulating within the Village. The effective date of this Zoning Ordinance for the Village of Pentwater is July 29, 1999; provided amendments may have a later effective date.

SECTION 19.19 PUBLICATION AND DELIVERY OF NOTICE OF PUBLIC HEARING

(Amended 5-12-08)

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered according to the requirements of this section.

A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Village.

B. For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special land use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

1. The applicant;
2. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application; and
3. The occupants of all structures within 300 feet of the property that is the subject of the application.

If the above-described 300-foot radius extends outside of the Village boundary, then notice must be provided outside of the relevant local government's boundary, within the 300-foot radius, to all persons in the above-stated categories.

C. The notice of public hearing shall include the following information:

1. A description of the nature of the application or request.
2. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
3. A statement of when and where the application or request will be considered.
4. Identify when and where written comments will be received concerning the application or request.

CHAPTER 20
REZONING AND ZONING ORDINANCE TEXT AMENDMENTS

(Chapter Added 6-10-19)

SECTION 20.01 ZONING AMENDMENT INITIATION

An amendment to the zoning district boundaries contained on the official Zoning Map (rezoning) may be initiated by the Village Council, Planning Commission, or by the owner or owners of property that is the subject of the proposed rezoning. An amendment to the text of this Ordinance may be initiated by the Village Council, Planning Commission, or by petition of one (1) or more property owners of the Village.

SECTION 20.02 REZONING AND ZONING ORDINANCE TEXT AMENDMENT APPLICATION PROCEDURE

A. Application Information for Amendments. An amendment to the official Zoning Map or to the text of the Village of Pentwater Zoning Ordinance, except those initiated by the Village Council or Planning Commission, shall be initiated by submission of a complete application on a form supplied by the Village, including an application fee, which shall be established from time to time by resolution of the Village Council. The application shall explicitly describe the proposed amendment and shall be signed by the applicant.

B. Application Information for Zoning Map Amendment. In the case of an application for amendment to the official Zoning Map (rezoning), the following information shall accompany the application:

1. information to indicate the dimensions, location and size of the subject property such as a sketch plan, property identification number, a legal description, street address of the subject property, a map identifying the subject property in relation to surrounding properties, or other information required by the Planning Commission;
2. the name, signature, and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, and proof of consent from the property owner;
3. the existing and proposed zoning district designation of the subject property;
4. a written description of how the requested rezoning meets Section 20.04 Criteria for Amendment of the Zoning Map (Rezoning); and
5. at the Planning Commission's discretion, the following additional information may be required:
    a. a site analysis site plan illustrating existing conditions on the site and adjacent properties such as woodlands, wetlands, soil conditions, steep slopes, drainage patterns, views, existing buildings, any sight distance limitations, relationship to other developed sites, and access points in the vicinity;

b. a conceptual plot plan to scale demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, wetland buffers access spacing, any requested service drives and other site design factors;

c. a traffic impact analysis if any use permitted in the requested zoning district could generate one hundred (100) or more peak hour directional trips, or 1,000 or more vehicle trips per day; the traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district; the determination of representative uses shall be made by the Planning Commission with input from Village staff and consultants; and/or

d. the site shall be staked to clearly indicate the location of the requested amendment, and flagged stakes shall be placed at each parcel corner.

SECTION 20.03 REZONING AND ZONING ORDINANCE AMENDMENT PROCESS

A. Public Hearing. Upon initiation of a rezoning, zoning ordinance text amendment, or master plan amendment, a public hearing on the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given in accordance with the provisions of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, MCL 125.3101 *et seq.*

B. Planning Commission Review and Recommendation. Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the Village Council. In the case of a proposed amendment to the official Zoning Map (rezoning), the Planning Commission shall consider the criteria contained in Section 20.04 Criteria for Amendment of the official Zoning Map (Rezoning), below, in making its findings and recommendation to the Village Council. In the case of a proposed amendment to the text of this Ordinance, the Planning Commission shall consider the criteria contained in Section 20.05 Criteria for Amendment of the Official Zoning Ordinance Text, below, in making its findings and recommendation to the Village Council.

C. Village Council Review and Action. Following receipt of the findings and recommendation of the Planning Commission, the Village Council shall consider the proposed Zoning Map or text amendment. In the case of an amendment to the text of this Ordinance, the Village Council may modify or revise the proposed amendment as recommended by the Planning Commission. In the case of an amendment to the official Zoning Map (rezoning), the Village Council shall approve or deny the amendment.

D. Notice of Adoption. Following adoption of a Zoning Map or text amendment by the Village Council, a notice will be published in accordance with the Michigan Zoning Enabling Act, Act 10 of the Public Acts of 2006, MCL 125.3101 *et seq.*

E. Resubmittal. No petition for rezoning or text amendment that has been denied by the Village Council shall be resubmitted for a period of one (1) year from the date of denial except on the grounds of new and material evidence or substantial proof of changed conditions.

SECTION 20.04 CRITERIA FOR AMENDMENT OF THE ZONING MAP (REZONING)

In considering any petition for an amendment to the official Zoning Map (rezoning), the Planning Commission and the Village Council shall consider the following criteria in making its findings, recommendations and decision:

A. Consistency with the goals, policies, and future land use guidelines of the Village of Pentwater Master Plan, including all applicable subarea and corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area;

B. Compatibility of the site's physical, geological, hydrological, and other environmental features with the potential uses allowed in the proposed zoning district;

C. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) or more of the uses permitted under the current zoning;

D. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values;

E. The capacity of Village infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety, and welfare" of the Village residents;

F. The apparent demand for the types of uses permitted in the requested zoning district in the Village in relation to the amount of land in the Village currently zoned to accommodate the demand; and

G. Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

SECTION 20.05. CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING ORDINANCE TEXT

The Planning Commission and Village Council shall, at minimum, consider the following before taking action on any proposed amendment to the text of this Ordinance:

A. Compatibility with the basic intent and purpose of the Ordinance;

B. Consistency with the goals, objectives, and future land uses of the Village of Pentwater Master Plan, including a sub-area or corridor studies;

C. The requested amendment will correct an error and/or clarify an ambiguity in the Ordinance;

D. The requested amendment will resolve an inequitable situation created by the Ordinance and does not grant special privileges;

E. The requested amendment will not result in unlawful exclusionary zoning;

F. There is documentation from Village staff or the Zoning Board of Appeals indicating problems and conflicts in implementation or interpretation of specific sections of the Ordinance;

G. The requested amendment will address changes in state or federal legislation or regulations or other Village ordinances; and

H. The requested amendment will resolve potential legal issues or administrative problems with the Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.

SECTION 20.06. CONDITIONAL REZONING

A. Intent, application for and processing of conditional rezoning.

1. This section is intended to implement section 405 of the Zoning Enabling Act, MCL 125.3405, authorizing conditional rezonings.
2. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. The offer will be in a proposed conditional rezoning agreement, as described in this section, below. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process; however, the offer must in all events be considered by the Planning Commission before being acted on by the Village Council.
3. The required application and process for considering a rezoning request with conditions will be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
4. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
5. Approval under this section must not obviate the requirement for special land use approval, variance relief or site plan approval.
6. If the Village is in the process of proceeding with a conditional rezoning under this section and the applicant has not voluntarily offered the condition (or conditions) being considered, the applicant must inform the Village Clerk in writing of such fact before the final action of the Village Council granting the conditional rezoning.

B. Standards for approval. The following standards, among other factors deemed relevant by the Planning Commission and Village Council, shall be considered in determining whether to approve a rezoning with conditional rezoning agreement, provided, the determination on whether the underlying rezoning itself should be granted will be deemed to be a legislative decision of the Village Council equivalent to Village Council action on other amendments to the zoning ordinance:

1. Compatibility with the policies and uses designated for the land and area in the approved master plan;
2. Compatibility of the uses and improvements allowed under the proposed rezoning with conditional rezoning agreement with other zones and uses in the surrounding area;
3. Availability and adequacy of public services and facilities and whether there is likely to be any adverse impact from a development or use allowed under the rezoning with conditional rezoning agreement; and
4. Whether the development that would be approved will advance the public interest, weighing the reasonably expected burdens likely to result from allowing the development against the reasonably expected benefits to be achieved by the development.

C. Approval and effect.

1. If the Village Council, after recommendation from the Planning Commission, determines in its discretion that the proposed rezoning with conditional rezoning agreement should be approved, the conditional rezoning agreement will be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Village Council to accomplish the requested rezoning with conditional rezoning agreement.
2. The conditional rezoning agreement, as initially submitted, or as may be modified during the course of the rezoning process, will:
   a. Be in a form recordable with the Register of Deeds for Oceana County or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the conditional rezoning agreement in a manner acceptable to the Village Attorney.
   b. Contain a legal description and survey of the land to which it pertains.
   c. Contain a statement and acknowledgment that the terms and conditions of the conditional rezoning agreement will run with the land, be binding on and inure to the benefit of the property owner and the Village and their respective heirs, successors, assigns and transferees.
   d. A specification of all conditions proposed by the land owner to be applicable to the use and development of the land, including the following to the extent relevant:

(1) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features.

(2) Permissible uses of the property and a specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like.

(3) Preservation of natural resources and/or features.

(4) Facilities to address any relevant traffic, storm water and water quality issues.

(5) Provisions for maintenance of areas on the land, as relevant.

e. Contain a statement acknowledging that the conditional rezoning agreement or an affidavit or memorandum giving notice of it may be recorded by the Village with the Register of Deeds for Oceana County.

f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that the conditional rezoning agreement, as the same may have been modified during the rezoning process (if applicable), has been freely, voluntarily and knowledgeably offered by such owners and agreed on in its entirety.

3. On the rezoning taking effect, the zoning map will be amended to reflect the new zoning classification along with a designation that the land was rezoned with a conditional rezoning agreement. The Village Clerk will maintain a listing of all lands rezoned with a conditional rezoning agreement.

4. The approved conditional rezoning agreement or an affidavit or memorandum giving notice of it will be filed by the Village with the Register of Deeds for Oceana County.

D. Compliance with agreement. Any failure to comply with a condition within the conditional zoning agreement will constitute a violation of this zoning ordinance and be punishable accordingly. In addition, any such violation will be deemed a nuisance per se and subject to judicial abatement as provided by law.

E. Time period for establishing development or use. Unless a longer or shorter time period is specified in the ordinance rezoning the subject land, the approved development or use of the land authorized in the conditional rezoning agreement must be commenced within 12 months from the effective date of the rezoning and afterwards proceed diligently to completion. This time limitation may on written request of the land owner be extended by the Village Council if (a) it is demonstrated by the land owner and determined by the Village Council in its discretion that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently afterwards to completion, and (b) the Village Council determines in its discretion that there has not been a change in circumstances that would render the current zoning with conditional rezoning

agreement incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

F. Termination of conditional rezoning agreement. If the approved development or use of the rezoned land does not occur within the time frame specified under the preceding subsection E, above, or if the property owner makes a request in writing for termination of the conditional rezoning agreement before making any improvements under the conditional rezoning agreement, the rezoning and conditional rezoning agreement will be deemed to be immediately terminated except in the Village's discretion as to that part of the land, if any, that has been developed. In the event of such termination, no new development or use of the land will be permitted until a new zoning classification is approved by a rezoning of the land. On such termination, the Planning Commission must immediately initiate the process to rezone the land in whole or in part to its prior or other appropriate zoning classification. The procedure for considering and adopting this rezoning will be the same as applied to all other zoning requests. Once the rezoning has occurred, the Village will, on request of the land owner, record with the Register of Deeds for Oceana County a notice that the conditional rezoning agreement, except in the Village's discretion as to that part of the land, if any, that has been developed, is no longer in effect.

SECTION 20.07. AMENDMENTS REQUIRED TO CONFORM TO COURT DECREE

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Village Council and published, without necessity of a public hearing.

CHAPTER 21
SIGNS

(Chapter Added 09/09/2019)

SECTION 21.01 SIGNS - DESCRIPTION AND PURPOSE

These provisions are intended to regulate the size, number, location, and manner of display of signs, consistent with the following purposes:

A. To protect the safety and welfare of the Pentwater Village residents; to conserve and enhance the character of the Village; and to promote the economic viability of commercial and other areas by minimizing visual clutter.

B. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision or are distracting or confusing.

C. To promote uniformity in the size, number, and placement of signs within zoning districts.

D. To promote the identification of establishments and premises in the Village.

SECTION 21.02 SIGNS - DEFINITIONS

For the purposes of the provisions of this Chapter related to signs, the following words and phrases are defined as follows:

A. Awning Sign: A sign affixed flat against the surface of an awning.

B. Construction Sign: A sign which identifies the owners, contractors, architects, and/or engineers of a building(s) or development project under construction, subject to the following restrictions:

1. Construction signs shall not be larger than thirty-two (32) square feet and shall not exceed twelve (12) feet in height.
2. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
3. Construction signs shall be removed immediately upon issuance of any occupancy permit for any part of the building or structure which is the subject of the construction sign.

C. Commercial Establishment: A business operating independently of any other business located in a freestanding building; in a group of stores or similar establishments that are located side-by-side in a single building, sometimes call a strip mall, as a business completely separated from other businesses by walls from the ground up and separate entrances.

D. Directional Sign: A sign which gives directions, instruction, or information relating to location of buildings, designated routes for pedestrians and vehicles and other information for convenience or safety, such as parking information signs or entrance and exit signs.

E. Freestanding Sign: A sign not attached to a building or wall and which is supported by one (1) or more poles or braces or which rests on the ground or on a foundation that rests of the ground.

F. Governmental Sign: A sign erected or required to be erected by the Village, Oceana County, or by the state or federal government.

G. Memorial Sign: A sign, tablet, or plaque memorializing a person, event, structure, or site.

H. Off-premises sign. A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located (including, but not limited to billboards).

I. Political Sign: A sign erected for purposes of political campaigns for public office, for elections on public questions, or otherwise relating to public elections or public meetings held for the purpose of voting on or for public offices or public questions.

J. Portable Sign: A sign not permanently anchored or secured to either a building or the ground such as but not limited to "A" frame, "T" shaped, or inverted "T" shaped sign structures, and signs affixed to movable trailers.

K. Projecting Sign: A double-faced sign which is supported by a wall of a building and projects more than 12 inches but not more than 36 inches from the face of the building or wall.

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

M. Sign: A device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, commodity, or activity, or displaying or depicting other information.

N. Special Event Sign: A temporary or portable sign erected for a limited time for the purpose of calling attention to special events of interest to the general public and which are sponsored by governmental agencies, schools, or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.

O. Subdivision Identification Sign: A sign identifying or otherwise stating the name of a platted subdivision, site condominium development, multifamily development, or other residential development.

P. Temporary Sign: A display, informational sign, banner or other advertising device with or without a structural frame and intended for a limited period of display, including special event signs, and other such signs as may be allowed in this Chapter.

Q. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building, extending not more than twelve (12) inches from the exterior face of the wall to which it is attached.

SECTION 21.03 SIGNS PROHIBITED

The following types of signs are expressly prohibited:

A. Any sign which has flashing, moving, oscillating, or blinking lights, excluding time and temperature signs and barber pole signs, which are permitted.

B. Signs imitating or resembling official traffic or governmental signs or signals.

C. Any sign not expressly permitted by this Ordinance.

D. Off-Premises Signs.

SECTION 21.04 SIGNS EXEMPTED

The following signs shall be exempt from the provisions of this Chapter, except such signs shall comply with the requirements of Sections 21.11.

A. Governmental signs.

B. Signs for essential services

C. Historical markers.

D. Memorial signs or tablets.

E. Political signs.

F. Signs with an address and/or name of the owner or occupant, of not more than two (2) square feet in area, attached to a mailbox, light fixture, or exterior wall.

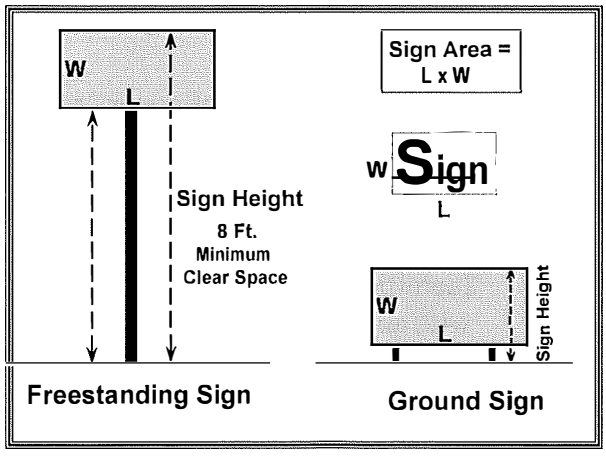
G. Real estate signs six (6) feet or less in area shall not require a permit, but shall comply with other applicable provisions of this Ordinance.

H. Commemorative Signs regulated by Act 506 of the Public Acts of 2018.

I. Special Event Signs shall not require a permit, but shall be removed within seven (7) days following event or activity, and shall comply with other applicable provisions of this Ordinance.

SECTION 21.05 MEASUREMENT OF SIGNS

A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo and any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.



B. The area of a free-standing or ground sign that has two (2) or more faces shall be measured by including the area of all sign faces, except that if two (2) such faces are placed back to back and are of equal size, the area of the two (2) back-to-back faces shall be counted as one (1) face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as one (1) sign face.

C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

D. Any freestanding sign not resting directly on the ground shall not exceed three (3) feet in height, or if supported on poles, shall have a clear area of at least eight (8) feet between the bottom of the sign and the grade of the adjacent street(s).

SECTION 21.06 SIGN APPLICATION AND PERMITS

A. A sign permit shall be required for the erection, use, construction or alteration of all signs, except for those exempted by the terms of this Chapter. For purposes of this Section, alteration of a sign shall mean any substantial change therein, but shall not include normal maintenance or repair thereof.

B. An application for a sign permit shall be made to the Zoning Administrator, and shall include submission of such fee as may be required by resolution or other action by the Village Council. The application shall include the following:

1. Name, address, and telephone number of the applicant and the person, firm, or corporation erecting the sign.
2. Address or permanent parcel number of the property where the sign will be located.
3. A sketch showing the location of the building, structure, or parcel of land upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures, together with the depth of setback from lot lines.
4. Two (2) scaled blueprints or drawings of the plans and specifications for the sign and information on the method of construction and attachment to structures or the ground.
5. Any required electrical permit.
6. Identification of the zoning district in which the sign is to be located, together with any other information which the Zoning Administrator may require in order to determine compliance with this Chapter.

C. All signs requiring electrical service shall be reviewed for compliance with the electrical code applicable to the Village.

D. The Zoning Administrator shall issue a sign permit if all provisions of this Chapter and other provisions of this Ordinance and other applicable Village ordinances are satisfied. A sign authorized by such a permit shall be installed or shall be under construction within six (6) months of the date of issuance of the sign permit. or the permit shall expire. A new permit may be issued upon the filing of a new application and payment of the required fee.

SECTION 21.07 SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS

A. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any lands in the Village except in accordance with the provisions of this Ordinance.

B. All signs shall be stationary and shall pertain only to the business or activity conducted on the premises.

C. No sign shall be placed in, or extend into, any public street right-of-way except signs approved for placement on or above Village sidewalks.

D. Construction signs are permitted, subject to the following restrictions:

1. Construction signs shall not be larger than thirty-two (32) square feet and shall not exceed twelve (12) feet in height.
2. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
3. Construction signs shall be removed immediately upon issuance of any occupancy permit for any part of the building or structure which is the subject of the construction sign.

E. Directional signs shall not exceed six (6) square feet in area per sign.

F. No wall sign shall project above the building roof line.

G. Flashing and intermittently illuminated signs are prohibited. Any sign lighting shall be shielded from vehicular traffic and adjacent residential properties.

SECTION 21.08 NON-CONFORMING SIGNS

A. Every permanent sign which does not conform to the height, size, area, or location requirements of this Chapter is deemed to be non-conforming.

B. Non-conforming signs may not be expanded, enlarged, or extended, but they may be maintained and repaired so as to continue their useful life.

C. A non-conforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a non-conforming sign.

SECTION 21.09 SIGNS IN RESIDENTIAL DISTRICTS

In addition to signs permitted and as regulated in all districts, the following non-illuminated signs are permitted in Residential Districts:

Sign and Number Permitted	Sign Area Permitted	Sign Height Permitted	Location
1 subdivision identification sign per entrance road	32 square feet	8 feet	At least six (6) feet from any lot line. A subdivision sign shall be separated by at least 1,320 feet on the same street from any other subdivision sign for the same subdivision
1 freestanding sign for permitted non-residential uses	16 square feet	6 feet	Minimum of 15 feet from each side lot line
2 signs per property advertising the sale of produce grown on the premises	16 square feet	6 feet	Minimum of 15 feet from each side lot line

SECTION 21.10 SIGNS IN COMMERCIAL AND INDUSTRIAL DISTRICTS

(Amended 12-9-02)

In addition to signs permitted and as regulated in all districts, the following signs are permitted in the Non-residential Districts.

A. Permanent Freestanding Signs

1. One (1) freestanding sign for each lot or parcel of land, not to exceed sixty-four (64) square feet in sign area and not to exceed twenty (20) feet in height.
2. Freestanding signs shall be set back so that no part of the sign shall be located or project nearer than ten (10) feet from the side and front lot lines.

B. Wall Signs in Commercial Districts

1. Each commercial establishment shall be permitted to have one (1) wall sign. For each commercial establishment on a corner lot, one (1) wall sign per public or private street frontage is permitted.
2. Commercial establishments located in a freestanding building with one hundred (100) feet or less of freestanding building frontage shall be permitted a wall sign area not to exceed one (1) square foot of sign for each lineal foot of street frontage of such freestanding building,
   a. Commercial establishments with more than one hundred (100) feet of freestanding building frontage shall be permitted a wall sign area not to exceed one (1) square foot of sign for each of the first one hundred (100) lineal feet of freestanding building frontage and one and one-half (1-1/2)

square feet of sign for each three (3) lineal feet in excess of one hundred (100) lineal feet.

b. Wall sign area for a commercial establishment consisting of a separate business located in a building with other businesses but with a separate and independent entrance shall be calculated in the same manner as in a freestanding building, using the building frontage of such commercial establishment.

3. The wall sign shall be attached to the same wall which is used to determine its size.

4. Projecting signs are permitted in the C-3 District where no wall sign exists on the same wall as the projecting sign, subject to the following requirements.

a. A minimum clear space of seven and one-half (7½) feet must be maintained from bottom of sign to the surface below the sign.

b. Projecting signs must be placed away from the wall at least six (6) inches but not extend above the second story.

c. Projecting signs shall extend no more than five (5) feet from the building or one-third (1/3) the width of the sidewalk, whichever is less.

d. Projecting signs may not exceed twenty (20) square feet in area.

5. Awning signs are permitted in the C-3 District where no wall sign exists on the same wall as the awning, subject to the following requirements.

a. A minimum clear space of seven (7) foot-six (6) inches must be maintained from bottom of the awning to which the sign is attached to the surface below the sign.

b. Signs on awnings may not exceed thirty percent (30%) of any face of the awning to which the sign is affixed.

c. A projecting sign may also be located on the same wall as an awning.

C. In the C-3 District, one (1) on premise freestanding sign shall be permitted to be placed next to any building, provided that such sign shall not exceed eight (8) square feet in area per side and not exceed four (4) feet in height. Such sign shall be placed so as to not block any sidewalk or building entrance or door.

D. Wall Signs in the Light Industrial District

1. Each industrial establishment shall be permitted to have one (1) wall sign. For each industrial establishment on a corner lot, one (1) wall sign per public or private street frontage is permitted. Each industrial establishment shall have not more than one (1) wall sign per wall.

2. The size of the wall sign shall comply with the following regulations:

a. Industrial establishments with up to one hundred (100) lineal feet of wall fronting a street are permitted to have a sign area not to exceed thirty-two (32) square feet.

b. Industrial establishments with more than one hundred (100) lineal feet of wall fronting a street are permitted to have a sign area of thirty-two (32) square feet plus one (1) additional square foot of sign area for each four (4) lineal feet of wall exceeding one hundred (100) lineal feet.

3. Wall signs shall not face a Residential District unless the district and the building are separated by a public or private street or other Non-residential District.

4. The wall sign shall be attached to the same wall which is used to determine its size.

SECTION 21.11 SIGNS FOR OTHER LAND USES

A. Signs in the Planned Unit Development District shall comply with the applicable sign provisions of Section 21.09.

B. Signs for Special Land Uses shall comply with the sign requirements of the district in which the Special Land Use is located, except to the extent that such requirements may be altered or modified in the approved conditions for the Special Land Use.

VILLAGE OF PENTWATER

COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Village Council of the Village of Pentwater, held at the Park Place (the former Friendship Center), 310 N Rush Street, Pentwater, Michigan, on the 12 day of April, 2021, at 6:00 p.m.

PRESENT: Members: Michelle Angell-Powell, Dan Nugent, Don Palmer, Claudia Ressel-Hodan and Jeff Hodges.

ABSENT: Members: Pam Burdick and Jared Griffis

The following ordinance was offered by Member Palmer and seconded by Member Nugent:

ORDINANCE NO. 99.8 2021 – 04 - 01

AN ORDINANCE TO AMEND THE VILLAGE ZONING ORDINANCE

[Setbacks for Waterfront Lots in the R-2 District and for Residential Dwellings, except Multiple-Family Dwellings, in the R-3 District]

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. The table provided in Section 6.04.E of the Village zoning ordinance shall be amended to provide that front yard setbacks and rear yard setbacks in the R-2 Single-Family Residential District shall be revised to read as follows:

R-2 District Regulations	Residential Buildings		Non-Residential Buildings
	Single	Two Family	
Minimum lot area	8,000 square feet	15,000 square feet	15,000 square feet
Minimum lot width	66 feet	120 feet	120 feet
Maximum height	35 feet (See Section 2.03, Building Height)		
Front yard setback	17 feet – but 30 feet for the front yard (the water side) of a waterfront lot		
Side yard setback	6 feet		15 feet
Rear yard setback	30 feet - but 17 feet for the rear yard (the road side) of a waterfront lot		
Minimum floor area	750 square feet on the first floor		N/A
Maximum lot coverage	50%		

Section 2. The table provided in Section 7.04.E of the Village zoning ordinance, with respect to Residential Dwellings, Except Multiple Family Dwellings, shall be amended to provide that the front yard setback and rear yard setback requirements with respect to Residential Dwellings, Except Multiple Family Dwellings, in the R-3 district shall be revised to read as follows:

R-3 District Regulations	**Residential Dwellings, Except Multiple Family Dwellings**
Minimum lot area	6,000 square feet per dwelling unit
Minimum lot width	60 feet
Maximum height	35 feet (see Section 2.03, Building Height)
Front yard setback	17 feet – but 30 feet for the front yard (the water side) of a waterfront lot
Side yard setback	6 feet (each side)
Rear yard setback	30 feet - but 17 feet for the rear yard (the road side) of a waterfront lot
Minimum floor area	750 square feet UFA on the first floor
Maximum lot coverage	50%

Section 3. **Effective Date**. This ordinance shall become effective seven (7) days after its publication or seven (7) days after the publication of the summary of its provisions in a local newspaper of general circulation in the Village.

AYES: Members: Michelle Angell-Powell, Dan Nugent, Don Palmer, Claudia Ressel-Hodan and Jeff Hodges.

NAYS: Members: None.

ORDINANCE DECLARED ADOPTED.

Rande S. Listerman

Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Rande S. Listerman

Rande S. Listerman, Village Clerk
Village of Pentwater

VILLAGE OF PENTWATER

COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327 Hancock Street, Pentwater, Michigan, on the 12th day of October 2020, at 6:00 p.m.

PRESENT: Members: Trustees Michelle Angell-Powell, Jared Griffis, Dan Nugent, Don Palmer, Claudia Ressel-Hodan and President Jeff Hodges

ABSENT: Members: Trustee Pam Burdick

The following ordinance was offered by Member Palmer and seconded by Member Nugent:

ORDINANCE NO. 99-8-2020-1

AN ORDINANCE TO AMEND THE VILLAGE ZONING ORDINANCE
[Zoning Board of Appeals and Variances]

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. Section 18.08 Review Standards for Variances is hereby amended to read in its entirety as follows:

> **Section 18.08 REVIEW STANDARDS FOR VARIANCES.** In limited circumstances, the Zoning Board of Appeals may waive application of one or more zoning ordinance provisions by granting a "variance" from such provision(s). The Zoning Board of Appeals may only grant a variance if the applicant is found to have satisfied each of the following seven Standards, based on competent material and substantial evidence on the record. The Zoning Board of Appeals must base its decision on such evidence, and its findings shall be consistent with (a) the facts and circumstances presented to it, and (b) the deductions that can be reasonably made from such facts and circumstances. The Zoning Board of Appeals shall base its decisions only on these Standards and not on matters unrelated to these Standards.
>
> A. First Standard – Practical Difficulty or Unnecessary Hardship. The applicant shall demonstrate that the circumstances constitute **either** a practical difficulty (the standard for a non-use variance) **or** an unnecessary hardship (the standard for a use variance), as follows:
>
> 1. Dimensional (Non-Use Variance). A non-use or dimensional variance would permit the modification or waiver of a non-use zoning regulation (such as minimum requirements for setbacks, lot width, lot

area, building separation, or other dimensional regulations that do not alter the fundamental type of building or use permitted).

For a non-use variance -- the First Standard will be satisfied only if the Zoning Board of Appeals finds that a "**practical difficulty**" exists that prevents compliance with the non-use zoning regulation. A practical difficulty exists when there are exceptional or extraordinary circumstances or conditions applying to the property (such as exceptional narrowness, shallowness or shape of the property, topographic conditions, conditions caused by the use or development of the property immediately adjoining the property in question), where such practical difficulty would unreasonably prevent the owner from using the property for a permitted use or would render conformity unnecessarily burdensome.

--or—

2. Use Variance. A use variance permits a land use that is not otherwise permitted in the relevant zoning district.

   For a use variance -- the First Standard will only be satisfied if the Zoning Board of Appeals finds that an "**unnecessary hardship**" will exist as to the applicant's land if the requested use is not permitted. An "unnecessary hardship" exists when the property, as a whole, cannot be put to a conforming use because the applicant has demonstrated that the land cannot yield a reasonable rate of return when used for a use that complies with the ordinance.

B. Second Standard – Special or Unusual Circumstances. The circumstances creating the need for the variance must be peculiar to the land, structures or buildings involved and shall not be recurrent or applicable as to a sufficient number of other lands, structures or buildings in the same zoning district, to a degree that the ZBA concludes that a general zoning ordinance amendment would be more appropriate.

C. Third Standard – Substantial Justice. The Zoning Board of Appeals should find that strict application of the ordinance provisions would deprive the applicant of property rights that are commonly enjoyed by other properties in the same zoning district.

D. Fourth Standard – Protecting Neighborhood Properties. The Zoning Board of Appeals shall not grant the variance if it would cause a substantial detriment or harm to other lands and uses, or if in the judgment of the Zoning Board of Appeals, the variance would be contrary to the spirit and purpose of the Zoning Ordinance Regulations.

E. Fifth Standard – Not Self-Created. If the Zoning Board of Appeals determines that the applicant or the applicant's representatives were involved in any action or inaction with respect to the property, prior to the variance request, where such action or inaction created the circumstances which prompts the variance request, no variance shall be granted.

F. Sixth Standard – Minimum Variance Necessary. The Zoning Board of Appeals shall grant only the minimum necessary variance from current Zoning Ordinance provisions to afford the applicant the relief created by the requested variance.

G. Seventh Standard – Voting. An affirmative vote of a majority of the members of the Zoning Board of Appeals is required to grant a dimensional (non-use variance). For a use variance, an affirmative vote of two-thirds of the members of the Board of Appeals is required.

In approving a variance, the Zoning Board of Appeals may include in its ruling such terms and conditions as the Zoning Board of Appeals may deem to be reasonably necessary to carry out the intent and purposes of this Ordinance and to protect and advance the public interest, including the interests of neighboring property owners.

Section 2. Section 18.06.A is hereby amended to replace the reference to Section 18.08.B with a reference only to Section 18.08.

Section 3. **Effective Date**. This ordinance shall become effective seven (7) days after its publication or seven (7) days after the publication of a summary of its provisions in a local newspaper of general circulation in the Village.

AYES: Members: Angell-Powell, Griffis, Nugent, Ressel-Hodan, Palmer and Hodges

NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Rande S Listerman

Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Rande S. Listerman, Village Clerk
Village of Pentwater

VILLAGE OF PENTWATER

COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327 South Hancock Street, Pentwater, Michigan, on the 11th day of February, 2019, at 6:00 p.m.

Members Present: Hodges, Griffiths, Burdick, Ressel-Hodan, Angell-Powell, Nugent and Powell.

Members Absent: None.

The following ordinance and preamble were offered by Member Angell-Powell and supported by Member Burdick:

ORDINANCE NO. 99-8-2019-1

AN ORDINANCE TO AMEND THE VILLAGE OF PENTWATER'S ZONING ORDINANCE

WHEREAS, the Village Council of the Village of Pentwater has determined that it would be in the best interest of the Village to adopt a zoning ordinance adding Section 19.20 governing the conditional rezoning of land as authorized by MCL 125.3405.

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. Conditional Rezoning.

A. Intent, application for and processing of conditional rezoning.

1. This section is intended to implement section 405 of the Zoning Enabling Act, MCL 125.3405, authorizing conditional rezonings.

2. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. The offer will be in a proposed conditional rezoning agreement, as described in this section, below. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process; however, the offer must in all events be considered by the Planning Commission before being acted on by the Village Council.

3. The required application and process for considering a rezoning request with conditions will be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

4. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

5. Approval under this section must not obviate the requirement for special land use approval, variance relief, or site plan approval.

6. If the Village is in the process of proceeding with a conditional rezoning under this section and the applicant has not voluntarily offered the condition (or conditions) being considered, the applicant must inform the Village Clerk in writing of such fact before the final action of the Village Council granting the conditional rezoning.

B. Standards for approval. The following standards, among other factors deemed relevant by the Planning Commission and Village Council shall be considered in determining whether to approve a rezoning with conditional rezoning agreement, provided, the determination on whether the underlying rezoning itself should be granted will be deemed to be a legislative decision of the Village Council equivalent to Village Council action on other amendments to the zoning ordinance:

1. Compatibility with the policies and uses designated for the land and area in the approved master plan;

2. Compatibility of the uses and improvements allowed under the proposed rezoning with conditional rezoning agreement with other zones and uses in the surrounding area;

3. Availability and adequacy of public services and facilities and whether there is likely to be any adverse impact from a development or use allowed under the rezoning with conditional rezoning agreement; and

4. Whether the development that would be approved will advance the public interest, weighing the reasonably expected burdens likely to result from allowing the development against the reasonably expected benefits to be achieved by the development.

C. Approval and effect.

1. If the Village Council, after recommendation from the Planning Commission, determines in its discretion that the proposed rezoning with conditional rezoning agreement should be approved, the conditional rezoning agreement will be incorporated by attachment or otherwise as an

inseparable part of the ordinance adopted by the Village Council to accomplish the requested rezoning with conditional rezoning agreement.

2. The conditional rezoning agreement, as initially submitted, or as may be modified during the course of the rezoning process, will:

   a. Be in a form recordable with the Register of Deeds for Oceana County or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the conditional rezoning agreement in a manner acceptable to the Village Attorney.

   b. Contain a legal description and survey of the land to which it pertains.

   c. Contain a statement and acknowledgment that the terms and conditions of the conditional rezoning agreement will run with the land be binding on and inure to the benefit of the property owner and the Village and their respective heirs, successors, assigns, and transferees.

   d. A specification of all conditions proposed by the land owner to be applicable to the use and development of the land, including the following to the extent relevant:

      (1) The location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features.

      (2) Permissible uses of the property and a specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like.

      (3) Preservation of natural resources and/or features.

      (4) Facilities to address any relevant traffic, storm water, and water quality issues.

      (5) Provisions for maintenance of areas on the land, as relevant.

   e. Contain a statement acknowledging that the conditional rezoning agreement or an affidavit or memorandum giving notice of it may

be recorded by the Village with the Register of Deeds for Oceana County.

f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that the conditional rezoning agreement, as the same may have been modified during the rezoning process (if applicable), has been freely, voluntarily, and knowledgeably offered by such owners and agreed on in its entirety.

3. On the rezoning taking effect, the zoning map will be amended to reflect the new zoning classification along with a designation that the land was rezoned with a conditional rezoning agreement. The Village Clerk will maintain a listing of all lands rezoned with a conditional rezoning agreement.

4. The approved conditional rezoning agreement or an affidavit or memorandum giving notice of it will be filed by the Village with the Register of Deeds for Oceana County.

D. Compliance with agreement. Any failure to comply with a condition within the conditional zoning agreement will constitute a violation of this zoning ordinance and be punishable accordingly. In addition, any such violation will be deemed a nuisance per se and subject to judicial abatement as provided by law.

E. Time period for establishing development or use. Unless a longer or shorter time period is specified in the ordinance rezoning the subject land, the approved development or use of the land authorized in the conditional rezoning agreement must be commenced within 12 months from the effective date of the rezoning and afterwards proceed diligently to completion. This time limitation may on written request of the land owner be extended by the Village Council if (a) it is demonstrated by the land owner and determined by the Village Council in its discretion that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently afterwards to completion and (b) the Village Council determines in its discretion that there has not been a change in circumstances that would render the current zoning with conditional rezoning agreement incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

F. Termination of conditional rezoning agreement. If the approved development or use of the rezoned land does not occur within the time frame specified under the preceding subsection E, above or if the property owner makes a request in writing for termination of the conditional rezoning agreement before making any improvements under the conditional rezoning agreement, the rezoning and conditional zoning agreement will be deemed to be immediately terminated except in the Village's discretion as to that part of the land, if any, that has been developed. In the event of such termination, no new development or use of the land will be

permitted until a new zoning classification is approved by a rezoning of the land. On such termination, the Planning Commission must immediately initiate the process to rezone the land in whole or in part to its prior or other appropriate zoning classification. The procedure for considering and adopting this rezoning will be the same as applied to all other zoning requests. Once the rezoning has occurred, the Village will, on request of the land owner, record with the Register of Deeds for Oceana County a notice that the conditional rezoning agreement, except in the Village's discretion as to that part of the land, if any, that has been developed, is no longer in effect.

Section 2. Should any section, clause, or paragraph of this ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the ordinance as a whole or part of it other than the part declared to be invalid.

Section 3. All ordinances or part of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. This ordinance will become effective seven (7) days after its publication or seven (7) days after the publication of a summary of its provisions in a local newspaper of general circulation in the Village.

AYES: Members: Angell-Powell, Burdick, Palmer, Nugent, Ressel-Hodan, Griffiths and Hodges.

NAYS: Members: None.

ABSENT: Members: None.

ORDINANCE DECLARED ADOPTED.

Rande S Listerman

Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Rande S Listerman

Rande S. Listerman, Village Clerk
Village of Pentwater

Introduced:
Public Hearing:
Adopted:
Effective:

VILLAGE OF PENTWATER

ORDINANCE NO. 99-8-2019-2

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP
OF SECTION 19.09 OF THE VILLAGE OF PENTWATER ZONING ORDINANCE

THE VILLAGE OF PENTWATER ORDAINS:

The Official Zoning Map is hereby amended to conditionally rezone the following described property from R-2, Single Family Residential District, to C-4, Hotel Resort District:

> Lot 10, 11 and 12 of the "Re-Plat of Block 30, and part of vacated Lake Street, of Plat of Middlesex, Village of Pentwater", being located on Government Lot 3 of Section 14, Township 16 North, Range 18 West, Pentwater Township, Oceana County, Michigan. (The "Property").
>
> Parcel Number: 64-044-430-010-00
>
> Common Address: 10 North Channel Lane, Pentwater, Michigan.

CONDITIONAL REZONING AGREEMENT

This Conditional Rezoning Agreement (the "Agreement") is made this 11th day of March, 2019, by and between the VILLAGE OF PENTWATER, a Michigan municipal corporation, with its offices at 327 South Hancock Street, Pentwater, Michigan (the

"Village"), and CHANNEL LANE INN, LLC, a Michigan limited liability company, with its principal offices located at 10 Channel Lane, Pentwater, Michigan ("Channel Lane Inn"), and LISA M. MCKINNEY, individually and as trustee of the LISA M. MCKINNEY TRUST u/a/d March 9, 2009, as amended, of 10 Channel Lane, Pentwater, Michigan ("McKinney").

THE PARTIES RECITE THAT:

WHEREAS, the Village is a municipal corporation organized and existing under and pursuant to The General Law Village Act, Act 3 of 1895, as amended (codified as MCL 61.1, *et seq*), and exercising all of the powers provided therein; and

WHEREAS, Channel Lane Inn is a Michigan limited liability company organized and existing in good standing under and pursuant to the Michigan Limited Liability Company Act, Public Act 23 of 1993, as amended (codified at MCL 450.4101, *et seq*), and exercising all of the powers provided for therein; and

WHEREAS, Channel Lane Inn and McKinney own certain real property located within the Village of Pentwater located at 10 North Channel Lane, which is currently zoned R-2, Single Family Residential District; and

WHEREAS, the Property is currently being operated as a hotel/motel as a lawful nonconforming use pursuant to a Consent Judgment entered by the 27th Circuit Court for the County of Oceana, Case No. 94-4717-CB, and recorded at the Oceana County Register of Deeds at Liber 1995, Page 6932; and

WHEREAS, Channel Lane Inn and McKinney desire to rezone the Property to C-4, Hotel Resort District, to remove the nonconforming use status;

WHEREAS, under and pursuant to Section 405 of the Michigan Zoning Enabling Act, 2008

PA 110, as amended (codified at MCL 125.3405, *et seq*), certain conditions voluntarily offered by the owner of land, including an agreement between the Village and Channel Lane Inn/McKinney, may become a condition of rezoning of the Property;

WHEREAS, on September 12, 2018, Channel Lane Inn/McKinney submitted a Rezoning application for the Property to the Village;

WHEREAS, on October 17, 2018, the Village Planning Commission held a Public Hearing on the Rezoning Application;

WHEREAS, on December 12, 2018, Channel Lane Inn/McKinney submitted a supplemental amendment to the Rezoning Application voluntarily offering, in writing, certain conditions to rezone the Property from R-2, Single Family Residential District, to C-4, Hotel Resort District, with conditions as set forth in this Agreement;

WHEREAS, on February 26, 2019, the Village Planning Commission held a public hearing on the Amended Rezoning Application and voted to recommend approval of the request for Conditional Rezoning to the Pentwater Village Council based upon this Agreement; and

WHEREAS, on March 11, 2019, the Village Council voted to approve the request for Conditional Rezoning and adopted Ordinance No. 99-8-2019-2 based upon the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, the Village and Channel Lane Inn/McKinney agree as follows:

1. **Zoning Use District Regulations.** Except as modified herein, the zoning use district regulations for the Property shall be the C-4, Hotel Resort District, regulations of Chapter 12A of the Village Zoning Ordinance, and the Property shall remain subject to all other

district use and development standards and all other regulations of the Village Zoning Ordinance, the Village Code of Ordinances (codified ordinances), and all other applicable state and local laws, regulations, and requirements for land development.

2. **Additional Conditions.**

   a. The operation of a restaurant on the Property is prohibited.

   b. The operation of a retail business on the Property is prohibited. Nothing in the preceding sentence shall preclude the Property owner/operator from marketing and selling hotel gift shop related merchandise from the Property's office or reception area. The marketing and selling of such hotel gift shop merchandise shall be subordinate and incidental to the operation of the Property as a hotel.

   c. The maximum lot coverage for the Property shall be no greater than 75% of the Property's lot area.

3. **Compliance with Conditions.** Channel Lane Inn/McKinney and their successors, assigns, and/or devisees shall continuously operate and maintain the Property in compliance with all of the conditions set forth in this Agreement. Any failure to comply with a condition contained herein shall constitute a violation of the Village Zoning Ordinance and be punishable accordingly against the owner and/or occupant of the Property. Additionally, any such violation shall be deemed a nuisance *per se* and subject to judicial abatement as provided by law. The Village shall be entitled to recover its actual costs and attorney fees incurred with respect to any action to enforce the terms and conditions of this Agreement.

4. **Transferability/Assignment.** This Agreement shall run with the land and bind the parties and their successors, heirs, assigns, devisees.

5. **Village Right to Rezone.** Nothing in this Agreement shall be deemed to prohibit or preclude the Village from rezoning all or any portion of the Property that is subject to this Agreement to another zoning classification. Any rezoning shall be conducted in compliance with the Village Zoning Ordinance, the Village Code of Ordinances, and the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*

6. **Entire Agreement.** This Agreement and the documents which are to be executed in accordance with the requirements hereof set forth all of the covenants, agreements, stipulations, promises, conditions, and understandings between the Village and Channel Lane Inn/McKinney concerning the rezoning of the Property as of the date hereof, and there are no covenants, agreements, stipulations, promises, conditions, or understandings, either oral or written, between them other than as set forth herein.

7. **Relationship of the Parties.** The relationship of the Village and Channel Lane Inn/McKinney shall be defined solely by the express terms of this Agreement, including any implementing documents, and neither the cooperation of the parties nor anything expressly or implicitly contained herein shall be deemed or construed to create a partnership, limited or general, or joint venture between the Village and Channel Lane Inn/McKinney, nor shall any party or their agent be deemed to be the agent or employee of any other party to this Agreement.

8. **Modification.** The terms of this Agreement shall not be modified, amended, or altered, except by written agreement duly executed by Channel Lane Inn/McKinney or their successors and the Village as authorized by the Village Council, after a public hearing and notification as required by the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*

Nothing in this paragraph shall be interpreted as prohibiting or precluding the Village from rezoning the Property pursuant to paragraph 5 above.

9. **No Waiver.** No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and singed by the party so waiver. No waiver by any party shall operate or be construed as a waiver regarding any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, or partial exercise of any right or remedy arising under this Agreement shall operate or be construed as a waiver, nor shall it preclude any other or further exercise of the waiver or the exercise of any other right or remedy.

10. **Waiver of Jury Trial.** Each party irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any right to a trial by jury in any legal action, proceeding, cause of action, or counterclaim arising out of or relating to this Agreement.

11. **Venue.** By execution of this Agreement, the parties consent to venue in Oceana County of any action brought to enforce the terms of this Agreement.

12. **Governing Law.** This Agreement shall be governed by the laws of the State of Michigan.

13. **Recording.** The approved conditions of rezoning set forth in this ordinance and Agreement, or an affidavit or memorandum giving notice thereof, shall be filed by the Zoning Administrator with the Oceana County Register of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

LISA M. MCKINNEY, individually and as trustee of the LISA M. MCKINNEY TRUST u/a/d March 9, 2009, as amended:

DATE: March 12, 2019

Lisa M. McKinney

CHANNEL LANE INN, LLC, a Michigan limited liability company:

DATE: March 12, 2019

Lisa M. McKinney, Sole Member

VILLAGE OF PENTWATER:

DATE: March 12, 2019

Jeffrey Hodges, Village President

DATE: March 12, 2019

Christopher Brown, Village Manager

Approved as to Form:

Brian J. Monton, Village Attorney

The Village of Pentwater further ordains that this ordinance shall be published within 15 days after its adoption.

The Village of Pentwater further ordains that this ordinance shall become effective 7 days after it is published.

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327

South Hancock Street, Pentwater, Michigan, on the 11 day of March, 2019, at 6:00 p.m.

Members Present: Burdick, Griffis, Nugent, Palmer, Ressel-Hodan, Hodges, Angell-Powell.

Members Absent: None.

The above ordinance and preamble were offered by Member Angell-Powell and supported by Member Burdick.

AYES: Members: Angell-Powell, Burdick, Griffis, Nugent, Palmer, Ressel-Hodan Hodges.

NAYS: Members: None.

ABSENT: Members: None.

ORDINANCE DECLARED ADOPTED.

Rande S Listerman
Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Rande S Listerman
Rande S. Listerman, Village Clerk
Village of Pentwater

CERTIFICATE OF APPLICANT

The undersigned duly authorized representative of the applicant property owner does hereby certify that the conditions to rezoning set forth above in this ordinance and Agreement were freely and voluntarily offered by the property owner to the Village as required by MCL 125.3405(5).

LISA M. MCKINNEY, individually and as trustee of the LISA M. MCKINNEY TRUST u/a/d March 9, 2009, as amended:

DATE: March 12, 2019

Lisa M. McKinney

CHANNEL LANE INN, LLC, a Michigan limited liability company:

DATE: March 12, 2019

Lisa M. McKinney, Sole Member