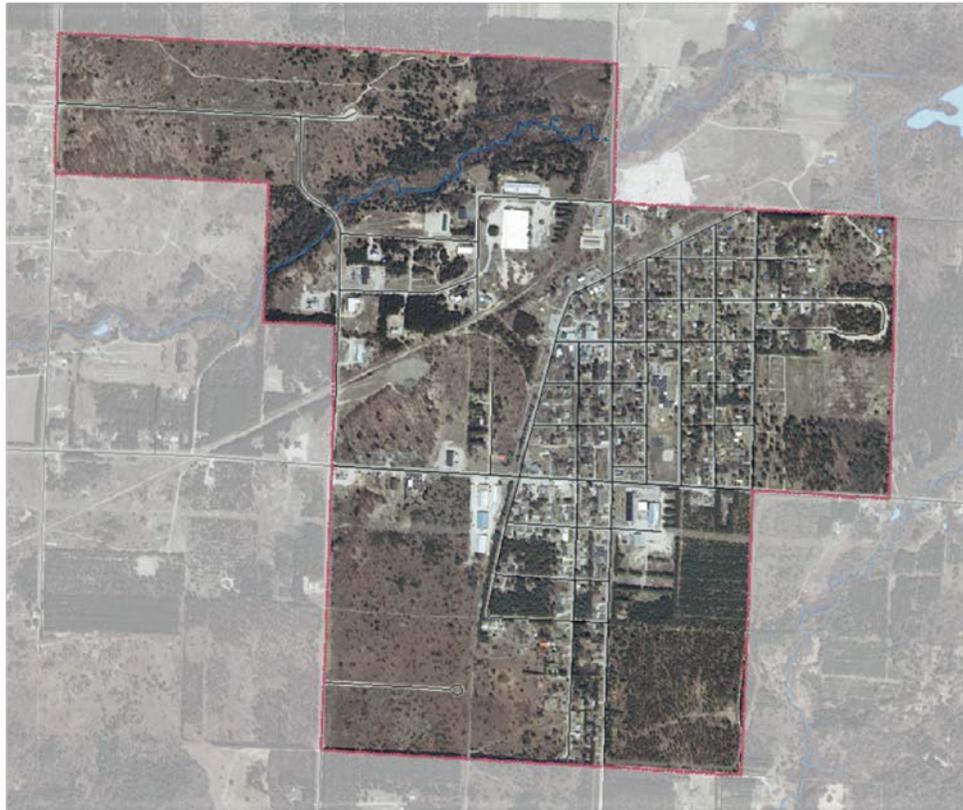


# **Village of Kaleva**

## **Zoning Ordinance**



**Recommended for Adoption by the Kaleva Village Planning Commission  
June 17<sup>th</sup>, 2013**

**Adopted by the Kaleva Village Council  
June 17<sup>th</sup>, 2013**

**Effective: July 4<sup>th</sup>, 2013**

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# ARTICLE 1: TITLE, PURPOSES AND LEGAL CLAUSES

## 101) Title

Kaleva Village Zoning Ordinance shall be known as the "Kaleva Village Zoning Ordinance", hereinafter called the "Ordinance".

## 102) Purpose

- A. This Ordinance is based upon the Kaleva Village Master Plan and designed:
  - a. To promote and protect the public health, safety and general welfare;
  - b. To protect the character and stability of the agricultural, forestry, recreational, residential, commercial and industrial areas within the unincorporated portions of Kaleva Village and promote the orderly and beneficial development of the Village;
  - c. To regulate the intensity of use of land and parcel areas in a manner compatible with the Kaleva Village Land Use Plan and to determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
  - d. To lessen and avoid congestion on the public highways and streets;
  - e. To provide for the needs of agriculture, forestry, recreation, residence, commerce, and industry in future growth;
  - f. To promote healthful surroundings for family life in residential and rural areas;
  - g. To set reasonable standards to which buildings and structures shall conform;
  - h. To prohibit uses, buildings or structures which are incompatible with the character or development or the uses, building or structures permitted within specified zoning districts;
  - i. To prevent such additions to or alteration or remodeling of existing structures which avoid the regulations and limitations imposed hereunder;
  - j. To protect against fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards;
  - k. To prevent the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each zoning district;
  - l. To conserve the value of land, buildings, and structures throughout the Village;
  - m. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;
  - n. To create an Appeals Board and to define the powers and duties thereof;
  - o. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this Ordinance;
  - p. To provide for the payment of fees for zoning permits;
  - q. To provide penalties for the violation of the Ordinance; and
  - r. To accomplish any other purposes contained in Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, MCL 125.3101, *et. seq.*

**103) Legal Basis**

This Ordinance is enacted pursuant to Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, MCL 125.3101, *et. seq.*

**104) Effective Date**

This Ordinance was adopted by the Village Council of the Village of Kaleva, Manistee County, Michigan, at a meeting held on June 19<sup>th</sup>, 2013 and a notice of publication ordered published in the *Manistee County News Advocate*, a newspaper having general circulation in said Village, as required by Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, MCL 125.3101 *et. seq.*

**105) Scope**

This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of deed restrictions; subdivision regulations; private restrictions placed upon property by covenants; condominium rules, ownership association rules; ordinances, laws, regulations of any federal, state or county agency. When this Ordinance has more restrictive regulations, limitations or requirements, then this Ordinance shall control. The Administrator shall not be engaged in the enforcement of deed restrictions or private restrictions placed upon property by covenants. If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the provisions of the zoning ordinance or amendment.

\_\_\_\_\_  
Dan Holtz, Village President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sonya Potts, Village Clerk

\_\_\_\_\_  
Date

Effective: July 4<sup>th</sup>, 2013

## ARTICLE 5: DEFINITIONS

### 501) Purpose

For the purpose of this Ordinance certain terms are defined. When not inconsistent with the context, the present tense includes the future, words used in the singular number include the plural number.

### 502) Undefined Words

Any word not defined herein, or not referred to in the NAICS Manual, shall be interpreted within its common and approved usage.

### 503) Definitions of words:

ACCESSORY STRUCTURES means a building which shall be construed to include, but not limited to, the following: playground equipment, sport courts, children's playhouses, domestic animal shelters, fallout shelters, swimming pools, gazebos, barbecue stoves, parking lots, loading docks and radio and television antennas, but shall not include fences, hunting blinds, signs.

ADMINISTRATOR means the Kaleva Village Zoning Administrator as created in Section 8201 *et. seq.* (entire article).

ALTERED/ALTERATIONS means any construction, modification, remodeling, repair, improvement, relocation, replacement of a structure, building, dwelling, accessory building or structure which needs a permit under the provisions of section 8401 *et. seq.* (entire article) or under the provisions of section 8601 *et. seq.* (entire article).

ALTERED means any change in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls.

APPEALS BOARD means the Kaleva Village Council acting as the Appeals Board, created in section 9601 *et. seq.*, pursuant to Public Act 110 of 2006, as amended, being Michigan Zoning Enabling Act, MCL 125.3101 *et. seq.*

ARTICLE means the main divisions of this Ordinance, cited by the words "section XXX *et. seq.*" Articles are further divided by sections.

**BUFFER AREA** means an area which does not have any structures which is designed to buffer noise, light, visual and other impacts by use of distance or setback greater than otherwise required, berm, walls, fences, vegetation between incompatible land uses. (See also Vegetation Belt, Greenbelt.)

**BUILDING** means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattel, or property of any kind. Buildings shall include awnings; eaves to the drip line; attached decks and porches with or without a roof; and trailers, whether mounted or on wheels and situated on private property and used for purposes of a building.

**BUILDING AREA** means the total exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios and steps, and of awnings and nonpermanent canopies.

**BUILDING ENVELOPE** means that portion of a parcel excluding the setbacks and applied to that parcel by this Ordinance.

**BUILDING HEIGHT** means the vertical distance measured from the lowest elevation of the ground next to the building to the highest point of the roof (for flat roofs, to the deck line), but not including chimneys, antennas, steeples, and other similar non-inhabitable structures or portions of structures.

**COMMISSION** means the Kaleva Village Planning Commission created pursuant to Public Act 33 of 2008, as amended, being Michigan Planning Enabling Act, MCL 125.3801 *et. seq.*, and has vested with it all the powers and duties of a planning commission pursuant to Public Act 110 of 2006, as amended, being Michigan Zoning Enabling Act, MCL 125.3101 *et. seq.*

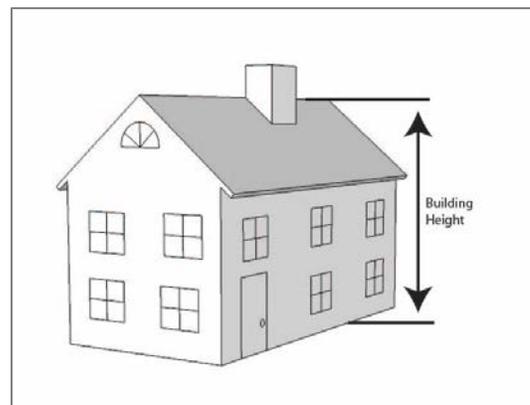
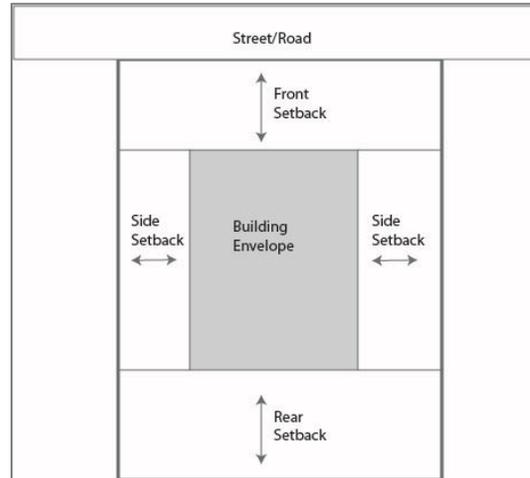
**CONTOUR CHANGE** means any grading, filling, digging or excavating that significantly alters the physical characteristic of a critical dune area, except that which is involved in sand dune mining.

**CREST** means the line at which the first lakeward facing slope of a critical dune ridge breads to a slope of less than 18 for a distance of at least twenty (20) feet, if the aerial extent where this break occurs is greater than one tenth (0.1) acre in size.

**DNR** means the Michigan Department of Natural Resources.

**EASEMENT** means a private irrevocable agreement of record between landowners, public utilities, persons, for a specific purpose such as but not limited to utilities, driveways, pipelines, pedestrian ways, roads.

**ENVIRONMENT ASSESSMENT** means a summary review of environmental impacts of a project.



**ENVIRONMENTAL IMPACT STATEMENT** means a document which is a detailed review of the impacts on the environment by a proposed project.

**EXISTING BUILDING** means a building existing in whole or whose foundations are complete, and whose construction is being diligently pursued on the effective date of this Ordinance.

**FAMILY** means an individual or a collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

**FARM** means a business enterprise engaged in agricultural production, (and otherwise known as farms, ranches, dairies, nurseries, orchards) of crops, livestock and trees and:

- A. Includes forty (40) or more acres of land in one ownership which is primarily devoted to agricultural use, or
- B. Has five (5) or more acres of land in one ownership, but less than forty (40) acres, devoted primarily to agricultural use, which has produced a gross annual income from agriculture of two hundred dollars (\$200.00) per year or more per acre of cleared and tillable land, or
- C. Has been designated by the Michigan Department of Agriculture as a specialty farm in one ownership which has produced a gross annual income from an agricultural use of two thousand dollars (\$2,000.00) or more.

**FENCE** means a constructed barrier or planted hedge which is designed to do any one, or more, of the following:

- A. restrict passage through it regardless if the fence has a gate(s) or not,
- B. prevent viewing through it, and/or
- C. be decorative.

**FLOOR AREA** means the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls, but not including basements, unfinished attics, attached garages, breezeways and enclosed or unenclosed porches. (Also referred to as "Usable Floor Area")

**GREENBELT** means a landscaped area for purposes of aesthetics and for purposes of a buffer area. (See also Buffer Area, Vegetation Belt.)

**HAZARDOUS SUBSTANCES** means:

- A. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. "Hazardous substance" as defined in the comprehensive environmental response, compensation and liability act of 1980, Public Law 96-510,94 Stat. 2767.

- C. "Hazardous waste" as defined in P.A. 64 of 1979 (being MCL 299.501 to 299.551, the Hazardous Waste Management Act).
- D. "Petroleum" as defined in P.A. 478 of 1988 (being MCL 299.831 to 299.850, the Leaking Underground Storage Tank Act).

**HOBBY** means an activity carried out by a person primarily for pleasure and self-entertainment.

**IMPERVIOUS SURFACE** means any manipulated land surface which does not allow stormwater to infiltrate into the ground in a fashion which is similar to the natural infiltration rates of the surrounding landscape. Impervious surfaces are often comprised of pavement, concrete, compacted soil and stone materials.

**JUNK** means

- A. old scrap ferrous or nonferrous material, rubber, cloth, paper, rubbish, refuse, litter;
- B. materials from demolition, waste building materials; and
- C. junked, abandoned, scrap, dismantled or wrecked (including parts of) motorized vehicles, farm equipment, boats, trailers, mobile homes, appliances and all other machines, other than motorized or motor vehicles being stored, processed, crushed or otherwise refurbished as part of a motorized vehicle salvage yard operation.

*But shall not include classic or antique items kept and collected for their antique or collectable value, and shall not include junk kept at a licensed Type I, II or III landfill for purposes of disposal as solid waste.*

**JUNKYARD/SALVAGE YARD** means an area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap and other metals, paper, rags, rubber tires, bottles and similar items, but excluding motor vehicle salvage yard.

**LIVESTOCK** means horses, cattle, sheep, swine, fowl, and other farm or ranch animals, but not domestic house pets.

**MOBILE HOME** means a dwelling, transportable in one or more sections which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Public Act 419 of 1976, as amended, being the Mobile Home Commission Act, MCL 125.1101 *et. seq.*, and administrative rules promulgated thereunder.

**MOTOR VEHICLE PARTS** means an automobile, truck, recreational vehicle, motorcycle, or any other vehicle which through the use of an internal combustion engine, electric motor or other manmade means is capable of being self-propelled and independently operated by a human being.

**MOTOR VEHICLE SALVAGE YARD** means a business located on property within the Village of Kaleva upon which motor vehicles are salvaged, processed, crushed, stored and otherwise refurbished for the purpose of reselling at retail or wholesale the entire motor vehicle and/or for the reselling at retail or wholesale of motor vehicle parts.

**NON-CONFORMING BUILDING, STRUCTURE** means a structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated and existed prior to the effective date of this Ordinance.

**NON-CONFORMING USE** means structure, building, plot, premise or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated and lawfully existing on the effective date of this Ordinance.

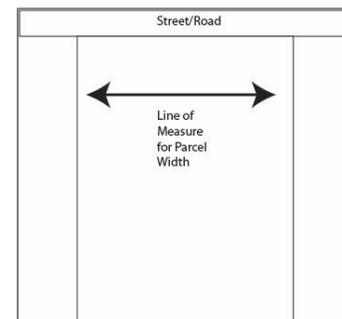
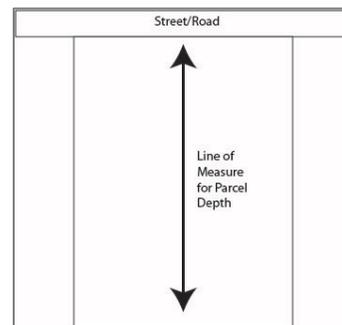
**OWNERSHIP** means the proprietor of the land who is a natural person, or his heirs, executors, administrator, legal representatives, successors, assigns, firm, association, partnership, corporation or government, or combination of any of them.

**PARCEL** means any tract or contiguous non-conforming (in size) parcels of land in the same ownership, whether one or more platted lots or parts of lots, tracts of land, as identified by one (or more than one on contiguous land) property tax parcel number(s) in the Kaleva Village Assessment roll, and a single unit (including limited commons area) site condominium.

**PARCEL AREA** means the total land area encompassed by the property lines, including any combination of lots or parcels of record or portions thereof, but in no case shall include easement for road right of ways, or an area of a public road which is there by historic use.

**PARCEL MEASUREMENTS** means:

- A. **DEPTH** of a parcel shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the front property line and rearmost points of the rear property line.
- B. **WIDTH**
  - a. The distance between the side property lines at each side of the parcel.
  - b. In determining parcel width on odd-shaped parcels, if the parcel abuts a curving street and, as a result, the side property lines are not parallel, the measurement of the width shall be at the front yard setback line.
  - c. In determining parcel width on other odd-shaped parcels, the average width measured at right angles to its depth.



**PARKING SPACE** means one unit of parking area provided for the parking of one automobile.

**PERSON** means an individual, partnership, firm, corporation, association, organization, trust, company, local unit of government or other political subdivision of the state, or a state or state agency as well as an individual.

**PERSONAL PROPERTY SALES** means events such as garage sales, yard sales, basement sales, auctions or other similar events where personal property is offered for sale on a limited basis and not for a duration of more than three days within any three month period.

**PRESIDENT** means the chief elected official of the Kaleva Village Council.

**PRIVATE ROAD** means a road which is part of a recorded subdivision and shown as a private road on the plat, or a road which is not public which services more than one dwelling and business. Private Road shall not include driveways to a dwelling or business or accessory buildings thereto when the driveway is located on the same parcel of land as the serviced structure; a United States Forest Service road; a county road as shown on maps certifying the same to the Michigan Department of Transportation; two-track trails which have been in common use for fifteen (15) or more years and which provide the only access to a parcel of property.

**PROPERTY LINE** means the outside perimeter of a legally described parcel of land.

**PUBLIC UTILITY** means any person, firm, corporation, municipal department or Council fully authorized to furnish, under federal, state, or municipal regulations, electricity, gas, steam, communications, telegraph, transportation, water or sanitary or storm water sewerage facilities to the public.

**RESTABILIZATION** means restoration of the natural contours of a critical dune to the extent practicable, and the restoration of the protective vegetative cover of a critical dune through the establishment of indigenous vegetation, and the placement of snow fencing or other temporary sand trapping measures for the purpose of preventing erosion, drifting, and slumping of sand.

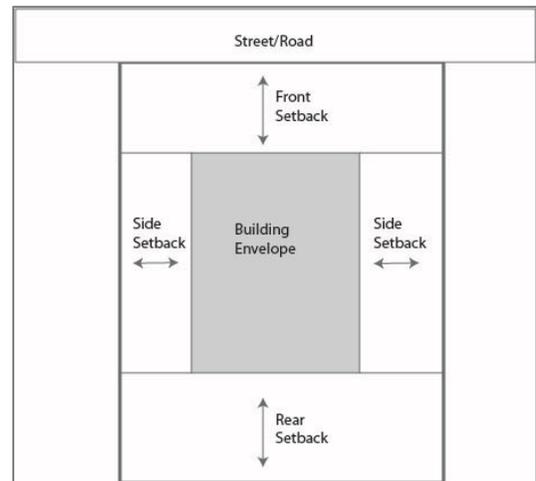
**RIGHT-OF-WAY** means a public or private way for road purposes.

**SECTION** means a part of this Ordinance, being the next division under an Article. A section is cited by article number and section number, "XXX", with the last two digits being the section number, and the remaining digits to the left being the article number. Sections may be further divided into subsections "A.", divisions "1.", paragraphs "a.", and subparagraphs "(1)", for example.

**SETBACK** means a line parallel to a property line which is a specified distance toward the center of a parcel from the property lines or water front. Side, front, rear and waterfront setbacks correspond to the respective yard.

**SEX-ORIENTED BUSINESS** means any Retail Trade or Service establishment and Home Occupation which has more than ten percent (10%) of its business involving the sale, use, participation, and observation of:

- A. anything tangible, including any material which is capable of being used or adapted to arouse shameful or morbid interest in nudity, sex, or excretion, whether through the medium of reading, observation, sound or in any other manner, including but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction.



- B. representations or descriptions of normal or perverted, actual or simulated sexual intercourse, fellatio, cunnilingus, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, or depictions or descriptions of sexual bestiality, sadomasochism, masturbation, or excretory functions;
- C. representations or descriptions of masturbation, excretory functions, or a lewd exhibition of the genitals.

Further, if any of the above meets all of the following criteria:

- A. that the average individual, applying contemporary community standards, would find that the material taken as a whole, appeals to the shameful or morbid interest in nudity, sex, or excretion;
- B. that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value;
- C. that the material depicts or describes, in a patently offensive way, sexual conduct. "Material" includes undeveloped photographs, molds, printing plates, and other latent representational objects notwithstanding that processing or other act may be required to make its content apparent.

**SHALL** means a mandatory directive. The word "shall" is always mandatory and not merely permissive.

**SIGN** means any structure or wall or other object used for the display of any message.

**STORY** means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between any floor and the ceiling next above it.

**STRUCTURE** means anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, except, structure shall not include automobiles, trucks, trailer, hunting blinds, fences, hedges, sidewalks, gardens, shore stabilization devices.

**STRUCTURE, MOVABLE** means a structure which is determined to be movable based on a review of the design and size of the structure, a review of the capability of the proposed structure to withstand normal moving stresses, and a site review to determine whether the structure is accessible to moving equipment.

**SUBSTANDARD PARCEL** means

- A. A parcel of record or a parcel which is described in a land contract or deed executed and delivered before the designation of a high risk erosion area and which does not have adequate depth to provide the minimum required setback from the bluffline for a permanent structure. The term also means those lots which are legally created after the designation of a high risk erosion area, which have sufficient depth to meet setback requirements for permanent structures, but which subsequently become substandard due to erosion processes.
- B. A parcel of record or a parcel which is described in a land contract or deed executed and delivered prior to the effective date of this Ordinance, which does not have adequate size, width or which is not big enough to provide for the minimum setbacks and building size required in this Ordinance.

**TRAILER** means a vehicle which can be drawn on a highway and is used for recreational or camping purposes. Includes the terms motor home, pole-trailer, trailer coach, trailer, mobile home as defined in Public Act 300 of 1949, as amended, being the Michigan Motor Vehicle Code (MCL 257.1, et. seq.) and including camping units, tents, or any other temporary dwellings.

**USE** means the purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

**USED or OCCUPIED** means the physical presence of a person to use a structure and include the words "intended", "designed", or "arranged" to be used or occupied

**VARIANCE** means a relaxation of the terms of the this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary or practical difficulty.

**VEGETATION BELT** means an area which does not have any buildings which is designed to mitigate the movement of nutrients in the ground into a water body by use of woody plant material who's roots are likely to remove nutrients from the soil prior to the nutrients reaching the water body, and for erosion and bank stabilization. (See also Buffer Area, Greenbelt.)

**VILLAGE** means the Village of Kaleva, a Michigan municipal corporation.

**VILLAGE COUNCIL** means the Kaleva Village Council of Trustees.

**WATER BODIES** means surface water, lakes, wetlands, rivers, streams, ponds, springs but does not include man-made farm ponds, stormwater retention ponds, sediment ponds or impromptu or uncontrolled collection of storm water.

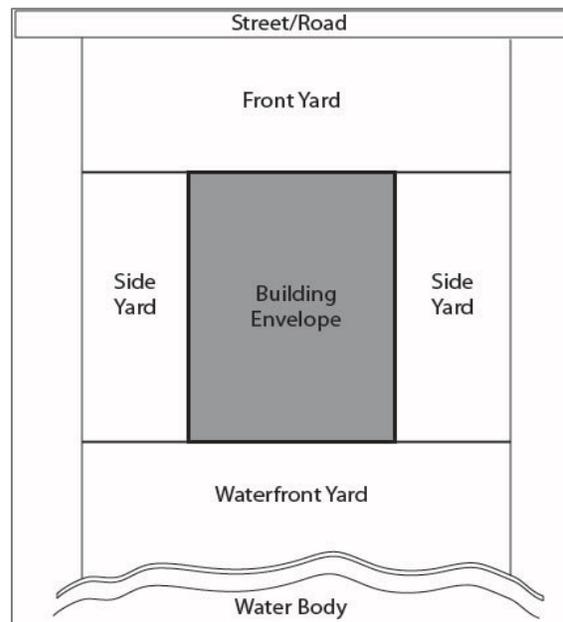
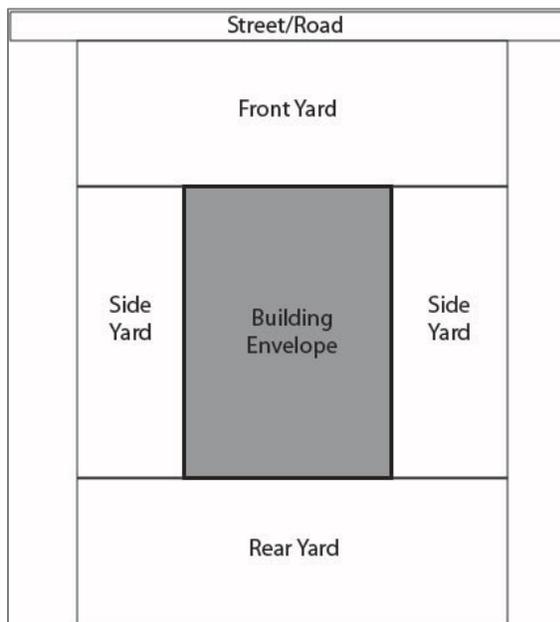
**WATER'S EDGE** means the line where the water and shore meet when the water is at its annual high level.

**WETLAND** means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life, and is commonly known as a swamp, bog, marsh and is classified as forested or non-forested emergent or flats in the Manistee County Land Use/Cover Classification system prepared under the Michigan Resource Inventory Act and characterized by a soil type which is alluvial land, undifferentiated, variably textured flood plain sediments.

**WOODY PLANT MATERIAL** means vegetation characterized as having a wooden stem or trunk (as opposed to a fibrous or grass stem).

**YARD** means an open space extending the full width of a parcel or extending from the front building line to the rear building line. Designations of side, rear, front, waterfront yards and side, rear, front, waterfront setbacks shall have a direct correlation.

- A. Front Yard means a yard between the front property line, which is adjacent to a road right-of-way, and the nearest building line:
- B. Rear yard means a yard between the property line on the opposite side of the parcel from the property line adjacent to a road right-of-way and the rear building line:
- C. Side yard means the remaining yard(s) between the front and rear building lines, and the side line(s) of the parcel:
- D. Waterfront yard means a yard between the water's edge and a building line. It may be situated in what would be a side or rear yard if the water body was not present:
- E. A parcel may have any combination of yards, so that it may not have a rear yard, it may have two front yards, etc.:



### 504) North American Industrial Classification System (NAICS)

The numbers appearing in parenthesis following the permitted and special uses set forth in this Ordinance refer to the classification numbers in the North American Industrial Classification System Manual (2012) prepared by the Office of Management and Budget (NAICS), which is incorporated herein by reference. Uses listed in this Ordinance which are identified with a two-digit number (XX) refer to the Major Groups in the NAICS. Except where otherwise indicated, a use which is identified by reference to a Major Group includes all uses listed in the NAICS under that Major Group, if any, with a three-digit (XXX), four-digit (XXXX), five-digit (XXXXX) or six-digit (XXXXXX) number, the first two numbers of which are the same as the Major Group numbers. Except where other indicated, a use which is identified with a three-digit (XXX) number includes all uses listed in the NAICS, if any, with a four-digit (XXXX) number, the first three numbers of which are identical to the use in question, but does not include other uses in the same Major Group. Except where otherwise indicated, a use which is

identified with a five-digit (XXXXX) number includes only that use referenced in the NAICS and does not include other uses in the same Major Group with two or three digits.

### **505) Definition of Uses:**

The following definitions of uses are provided to compliment the uses provided for in the 2012 NAICS Manual. Refer to the NAICS Manual for the definitions of uses not provided for below.

**ACCESSORY BUILDINGS** means a use which is a supplementary building or structure on the same parcel as the main building, or part of the main building, occupied by or devoted exclusively to an accessory use. Such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings.

**ACCESSORY USE** means a use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the land or buildings, but not including uses considered accessory buildings or accessory structures.

**APARTMENT BUILDING** means a use which is a dwelling designed for or occupied by three or more families, with separate housekeeping, cooking, and bathroom facilities for each.

**CAMPGROUND** means a use on a parcel or tract of land licensed by the State under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for three or more recreational units which includes trailers as defined in this Ordinance.

**DUPLEX** means a use which is a dwelling designed for or occupied by two families only, with separate housekeeping, cooking, and bathroom facilities for each which complies with the standards given in this Ordinance.

**DWELLING** means a use which is a structure, mobile home, pre-manufactured or pre-cut dwelling structure designed and used for the complete living accommodations of a single family which complies with the standards given in this Ordinance.

**HOME OCCUPATION** means a use which includes any activity carried out for gain by a resident and conducted as an accessory use in the person's home, but not a hobby.

**MOBILE HOME PARK** means a use which is a parcel of land under the control of a person upon which three or more mobile 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 therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary mobile home or trailer.

**OUTDOOR RECREATION - PARKS** means uses which are public or private playgrounds, vest pocket parks, nature areas, natural areas, ball fields, open space preserves, arboretums, gardens, beaches, and so on but not including facilities designed for overnight or camping use.

**STATE LICENSED RESIDENTIAL FACILITIES** means a use which is a structure constructed for residential purposes that is licensed by the state, pursuant to Public Act 218 of 1977, as amended, (MCL 400.701, *et. seq.*) or Public Act 116 of 1973, as amended, (MCL 722.111, *et. seq.*) or a home for the care of six or fewer elderly (senior) citizens.

**SWEETENING PLANT** means a use which is a facility or plant which is designed for the removal of sulfur compounds from natural gas as well as gas and oil well

## **Article 10: General Provisions**

### **1001) Purpose**

It is the purpose of this Article to provide regulations that apply in all zoning districts to all permitted uses and special uses, unless specifically referenced as otherwise within an individual section.

### **1002) Scope**

Zoning applies to all parcels of land and to every building, structure or use. No parcel of land, no building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, altered, occupied or used except in conformity with this Ordinance.

### **1003) General Provisions**

No parcel, building or structure in any district shall be used or occupied in manner which creates any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

- A. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as is required by applicable provisions of the State Construction Code and rules promulgated thereunder and/or the State Fire Marshal.
- B. Activity which emits radioactivity at any point, or electrical disturbance shall not be permitted in excess of the applicable federal, state, or local regulations or rules promulgated thereunder, including but not limited to, regulations of the Federal Nuclear Regulatory Commission or Public Service Commission or Michigan Department of Health and Department of Radiology.
- C. No malodorous gas or matter shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule thereunder.
- D. Kaleva Residents may burn yard waste and personal papers when such activity will not create a fire hazard to neighboring property and when flame, sparks and ash are controlled. Kaleva residents are allowed to have outdoor, recreational campfires and cooking fires. Such fires must be kept within metal rings designed to control the spread of fire. All such burning is subject to state and local regulations and burning ban s intended to protect public safety.
- E. No pollution of air by fly-ash, dust, vapors, or other substances shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule thereunder.
- F. No pollution of water bodies shall be permitted in excess of the applicable state or federal water pollution statutes or regulations promulgated by rule thereunder.
- G. No storm water runoff, which is a result of development site design, or other manmade alternatives, shall be allowed to collect which results in water standing on the surface, unless the standing water is a part of a properly managed and maintained storm water retention system, sediment pond; or the standing water is in a natural wetland or water body.

H. All developments, other than single-family or two-family residential developments which are not part of a site plan review as part of a subdivision approval process must conform to the requirements of the Manistee County Drain Commission Offices' Stormwater Guidelines.

The Administrator shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of the statutes, rules or ordinances cited above. The Village Council may take direct enforcement action only after a finding that cooperation by the Administrator with other agencies has not been successful.

#### **1004) Waste Accumulation and Outside Storage**

A. It shall be unlawful for any person to accumulate junk on any land except in a permitted junkyard, motor vehicle salvage yard, or licensed sanitary landfill or as allowed by Village ordinance.

B. No sewage, waste water or water containing foreign substances shall be deposited or drained into any water bodies unless the same has first been approved by state and county health authorities.

C. The provisions of this section are not to be deemed to prohibit storing or spreading of manure, fertilizers, or other soil conditioners as part of a permitted farm, forestry or home garden or lawn operation, botanical and zoological gardens [7121], outdoor recreation - parks.

#### **1005) Water Supply and Sewage Facilities**

A. A structure which is for human or animal occupancy shall be connected to a public sewer or to such private facilities in compliance with the Manistee County Sanitary Code, as amended.

B. A structure which is for human or animal occupancy shall be connected to the Kaleva Village water supply if the structure is located within the Village Boundaries.

C. Placement of septic systems including all components both above and below grade must provide proficient access for both man and machinery for installation, maintenance and replacement.

D. The Administrator shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of the statutes, rules or ordinances cited above. The Village Council may take direct enforcement action only after a finding that cooperation by the Administrator with other agencies has not been successful.

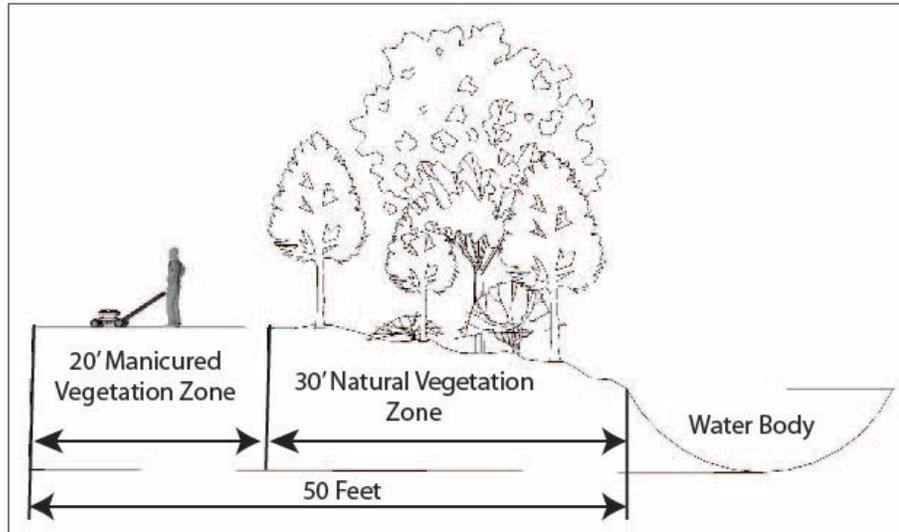
#### **1006) Water Protection**

Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:

A. No structure shall be built, located or constructed closer than one hundred (100) feet measured on a horizontal plane to the water's edge. In the event the water's edge recedes (moves landward), the setback line shall also be construed as to have moved landward a distance equal to the water's edge recession. In cases where parcels are smaller than the minimum parcel size allowed in the particular district so that applicable setbacks given here and in a particular district result in a building envelope less than 25 by 40 feet the Appeals Board shall grant a further reduction of side yard setback and/or a front yard setback prior to reducing the required water front setback.

B. A fifty (50') buffer shall be maintained along all intermittent and perennial streams located within the Village. The fifty (50') buffer shall be comprised of a thirty (30') foot natural vegetation zone extending from the top of the stream bank landward measured horizontally where vegetation shall not be removed unless noxious, non-native invasive species or dead and/or chronically diseased vegetation exists as identified by a landscape architect, horticulturalist, professional forester, or other professional as approved by the administrator; the additional twenty (20') foot manicured zone measured from the furthest landward extent of the thirty (30') foot natural vegetation zone continuing landward twenty (20') feet shall consist of manicured natural vegetation or groundcover, excluding all impervious surfaces. It shall be the landowner's responsibility to maintain this buffer in a healthy state.

C. No building or structure shall be built, located or constructed within a 100-year floodplain, wetland, water course or water body in any land use district as may be determined by the Michigan Department of Environmental Quality (DEQ).



### 1007) Hazardous Substance Groundwater Protection

All businesses and facilities (except fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor) which use or generates hazardous substances:

- A. in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or
  - B. stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less,
- Shall comply with the following groundwater protection requirements.

A. Groundwater Protection requirements:

a. Groundwater Protection, generally:

- i. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, flood plains, groundwater, street slopes, and natural and man-made drainage systems.
- ii. Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.

iii. General purpose floor drains and storm drains shall be:

- 1. connected to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with state, county and municipal requirements, or

- 2. authorized through a state groundwater discharge permit, or
    - 3. connected to a public sewer system.
  - iv. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals.
  - v. In determining conformance with the standards in this Ordinance, the Administrator or Commission, whichever one is applicable, shall take into consideration the publication titled "Guide to Understand Secondary Containment Requirements in Michigan; Michigan Department of Environmental Quality (MDEQ), 1998".
  - vi. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health and the District 10 Health Department.
  - vii. If the site plan includes territory within a Wellhead Protection Overlay Zone submit a signed statement providing permission for periodic follow-up groundwater protection inspections by the Administrator, county and state officials.
- b. Above-ground Storage
- i. Primary containment of hazardous substances shall be in product-tight containers which are protected from weather, leakage, accidental damage, and vandalism.
  - ii. Secondary containment for the storage of hazardous substances and polluting materials is required. Secondary containment shall be one of the following, whichever is greatest:
    - 1. sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance, or
    - 2. shall be at least as great as volumes required by state or county regulations, or
    - 3. shall, if not protected from rainfall, contain a minimum of
      - a. 110 percent of the volume of the largest storage container within the dike of the secondary containment area, plus
      - b. the volume that is occupied by all other objects within and below the height of the dike of the secondary containment area plus
      - c. the volume of a 6 inch rainfall.
  - iii. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
  - iv. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled, stored or used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater or soils.

- v. At a minimum, State of Michigan and Federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.
- vi. Bulk storage of pesticides shall be in accordance with requirements of the Michigan Department of Agriculture.
- c. Underground Storage
  - i. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Department of Environmental Quality (MDEQ).
  - ii. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

### **1008) Height**

No building or structure or part thereof shall be erected or altered to a height exceeding thirty five (35) feet, except

- A. Appendages to structures which are ornamental in purpose, such as church steeples, belfries, cupolas, domes, towers and flag poles so long as such appendages to structures do not exceed twenty (20) percent of the roof area.
- B. Appendages to structures relating to its mechanical or structural functions, such as chimney and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, antennas and their towers.
- C. Residential sized wind turbines where allowed by this ordinance and in keeping with the requirements of that use outlined by this ordinance.
- D. Commercial free-standing towers, such as radio television, telephone antennas and their towers.

Any building or structure or part thereof may be erected or altered to any height if approved by the Appeals Board, pursuant to its power to grant variances or the Commission in connection with a Special Use Permit application approval. This section does not apply to radio, television antenna systems.

### **1009) Bulk Regulations**

- A. The continuing maintenance of and association with required spatial relationships and physical requirements of this ordinance for the permitting of a use, structure, building, and parcel shall be the obligation of the owner of the use, structure, building and parcel.
- B. Required spatial relationships and physical requirements of this Ordinance shall be allocated to be in connection with only one use, structure, building, parcel and are not transferable, not to be split or divided by any means, not to be shared, unless;
  - a. any of the uses, structures, buildings, parcels involved in the transfer does not result in failing to meet required spatial relationships and physical requirements of this Ordinance or other applicable ordinances including, but not limited to, the Village, Manistee County and State of Michigan subdivision control laws.
  - b. specifically permitted elsewhere in this Ordinance.
- C. Required spatial relationships and physical requirements of this Ordinance shall apply uniformly within each respective zoning district to all uses, structures, buildings and parcels except that the following can be located anywhere on a parcel in accordance with section 1006:

- a. those parts of a building which are unroofed porches, terraces, patios and steps, and awnings and nonpermanent canopies;
  - b. flag poles;
  - c. hydrants;
  - d. clothes lines;
  - e. arbors, trellises, trees, plants, shrubs;
  - f. recreation equipment, outdoor cooking equipment; and
  - g. sidewalks, private driveways and walkways.
- D. As used in this section
- a. "Required spatial relationships" means all the requirements of this Ordinance dealing with minimum or maximum size, area or space required for an approved use, structure, building and parcel, including but not limited to, buffer areas, greenbelt, building area, building envelope, parcel area, parcel measurements (width, setback), parking space, vegetation belt, yard,
  - b. "Physical Requirements" means all the requirements of this Ordinance dealing with designated areas for specific physical (tangible) improvements or uses/functions required for an approved use, structure, building and parcel, including but not limited to, placement of accessory structures, improvements within buffer areas, building height, easement, floor area, improvements within a greenbelt, all provisions of article 10, access drive, drives, loading areas, solid waste storage areas, service drive, parking areas.

### **1010) Parcel Width to Depth Ratio**

Any parcel created after the effective date of this Ordinance shall not have a depth which is more than three (3) times its width.

### **1011) Access to Public Roads**

In any district every use, building or structure established after the effective date of this Ordinance shall be located on a parcel which abuts a public road or a private road or easement which provides access to a public road, such private road or easement being at least 66 feet in width unless a lesser width was duly established of record prior to the effective date of this Ordinance, provided that private easements in all cases shall be at least 20 feet in width.

### **1012) Roads, Visibility, Parking and Access**

- A. Private Roads: Every private road which provides or may provide access to and from a public road for three (3) or more dwelling units or principal buildings on separately owned parcels shall meet the following conditions:
  - a. Be constructed in a good and workmanlike manner within the right-of-way which is established by duly recorded conveyance and which is not less than sixty-six (66) feet in width or the current Manistee County Road Commission designated right-of-way, whichever is greater.
  - b. Be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage by such means as two foot deep ditches constructed parallel to and on either side of the street with curb and curb cuts, or by use of curb and gutter with a storm

sewer system; and by sloping the sides of the street from the center thereof, or by other effective methods.

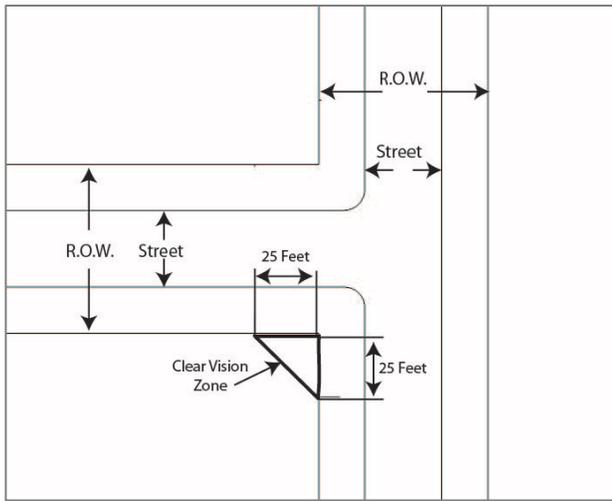
- c. The addition of bicycle lanes in the road cross-section is encouraged within the village through the establishment of striped lanes on the outside edge of each travel lane.
- d. No structures or development activity shall be established within the approved rights-of-way or easements.
- e. All private street easements shall contain provisions for the placement of public utilities.
- f. Continued maintenance of private streets shall be the responsibility of the owner(s) of property served by the private streets.
- g. All private roads to be turned over to the Village as public ownership, shall have a rating of eight (8) very good at time of transferal as determined by the State of Michigan Department of Transportation PASER (Pavement Surface Evaluation and Rating) system.
- h. Be constructed by standards as may be adopted by the Village Street Administrator.

**B. Driveways**

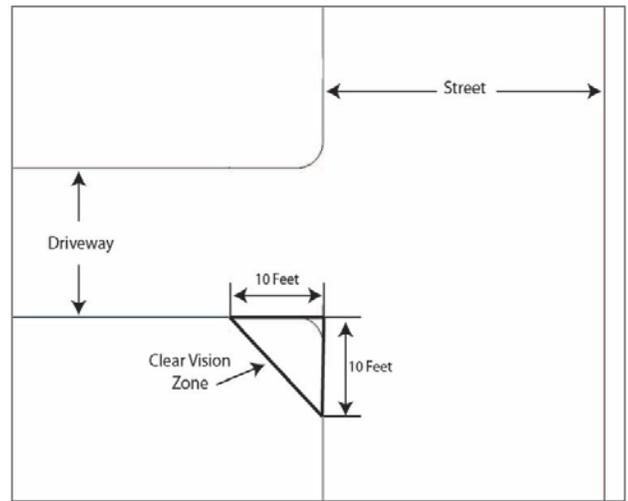
- a. May serve as many as 3 principal buildings
- b. Shall have a minimum, unobstructed width of twelve (12') feet and a minimum unobstructed length of fourteen (14') feet. Driveways over two-hundred (200') feet long shall have a turnaround within fifty (50') feet of the principle structure.
- c. Shall have an address number displayed on a sign or mailbox in compliance with the Manistee County Address Ordinance.

**C. Traffic Visibility at Corners**

- a. No fence, wall, structure or planting shall be erected, established or maintained on any and all corner lots which will obstruct the view of a driver of a vehicle approaching the intersection, excepting that shade trees would be permitted where all branches are not less than eight (8') feet above the road level. In the case of a street intersection, such unobstructed corner shall mean a triangular area formed by the street lines and a line connecting them at points twenty-five (25') feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street lines extended. In the case of driveway/street intersection, the aforementioned technique shall also be used, however a ten (10') foot dimension situated along the driveway and property line shall be utilized. Decorative fencing which would be approved on a corner could include open weave, split rail, or similar fencing.
  - i. Location of a structure on a corner lot. Both street setbacks shall be the district front yard setbacks.



Street Corner Clearance Diagram



Driveway Corner Clearance Diagram

## D. Parking and Access

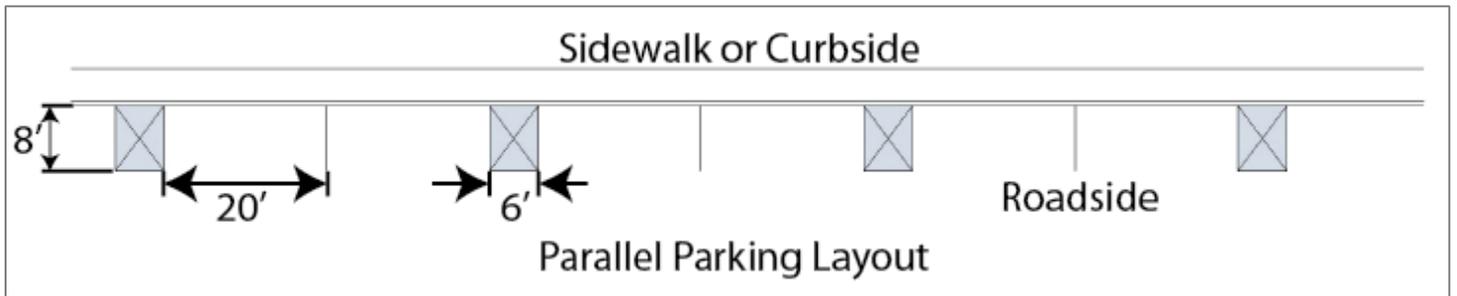
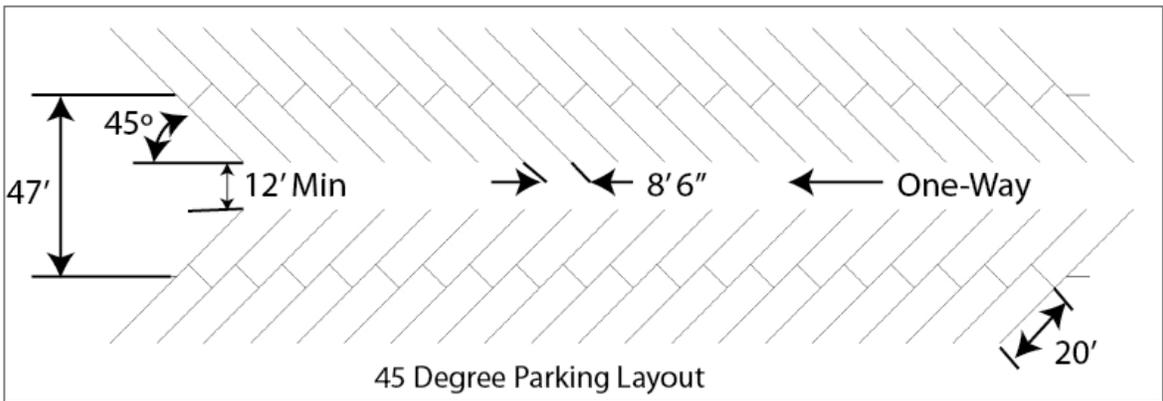
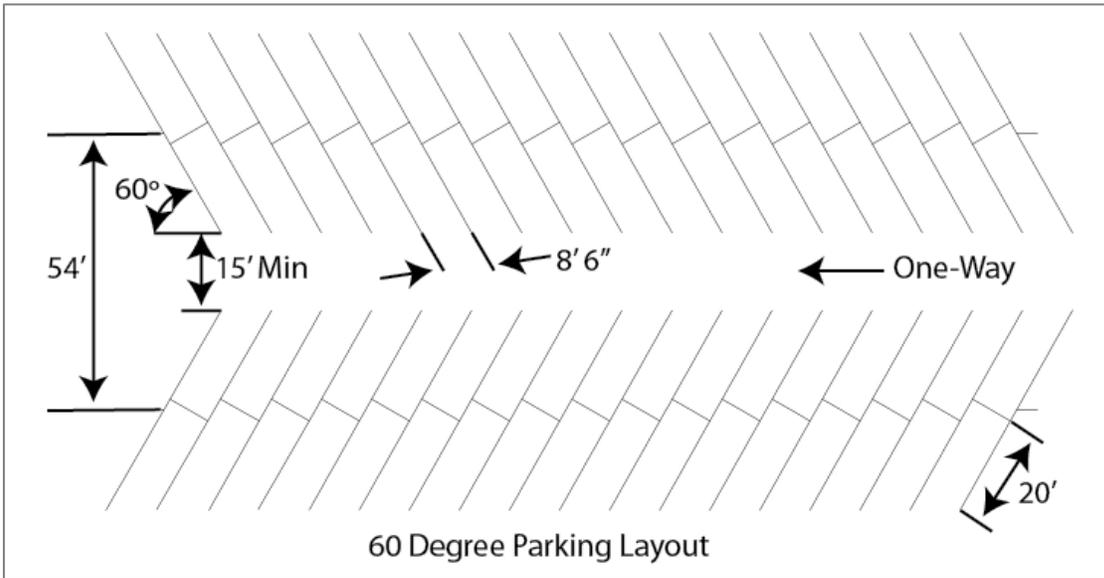
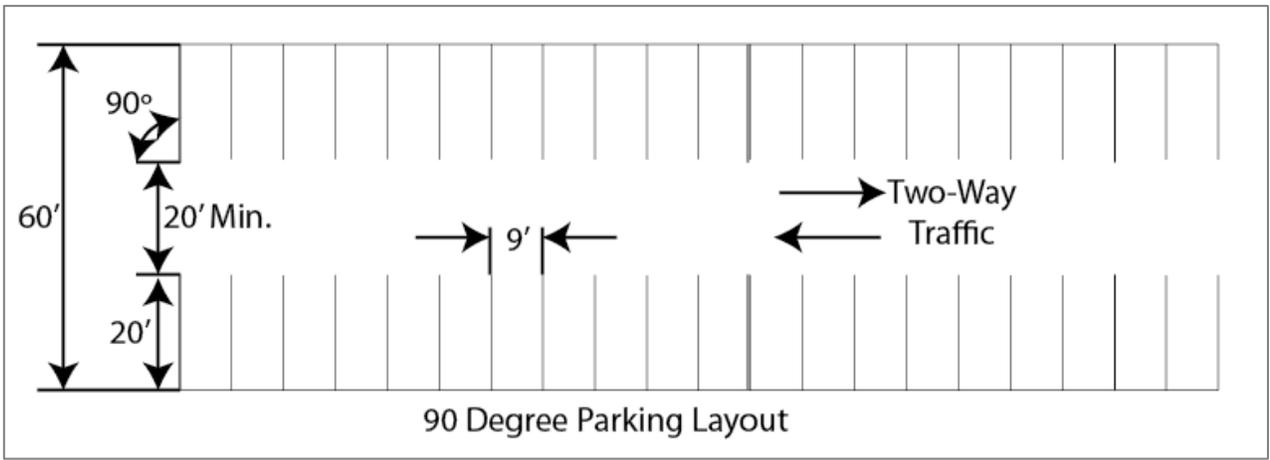
### a. General Provisions

- i. Parking lots must conform to the landscape standards provided for in section 1013 of this ordinance.
- ii. Off-street parking for non-residential uses shall be either on the same lot or within three-hundred (300') feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- iii. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere or site plan review approves a change in required parking.
- iv. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on any area designated as a parking lot.
- v. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.
- vi. All parking areas and layouts must be displayed on all medium and detailed site plans.
- vii. When determining the number of required parking spaces, if the determination results in a fractional space, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall require one (1) parking space.
- viii. A suitable means of ingress and egress shall be provided and located to minimize traffic congestion and interference with pedestrian movement. The location of all entrances and exits and directional signage shall be approved by the Planning Commission, and where required by the Manistee County Road Commission and the Michigan Department of Transportation.
- ix. Non-residential development on parcels along primary Manistee County Roads (9-mile Road and Healy Lake Road), shall provide connected access, where feasible, to adjacent parcels that are non-residential in nature and typically share the same types of uses.

- x. Federal and State requirements regarding ADA accessibility for parking and access shall apply.
  - xi. Off-street parking for parcels in the Downtown Business District shall be placed in the side or rear yards, unless a parking area is approved in the front yard by the Planning Commission.
  - xii. For the purpose of computing the number of parking spaces required, the definition of usable floor area shall govern.
  - xiii. Parking areas shall have appropriate lighting that meets the requirements of section 1015 of this ordinance.
- b. **Collective Parking**
- i. The collective provision of off-street parking for two or more structures or uses may be permitted provided that the number of spaces provided collectively is not less than the sum of the requirements for various individual uses, except as provided below.
  - ii. The total of such off-street parking facilities for joint or collective use may be reduced by the Commission in accordance with the following rules and standards:
    - 1. Uses for which the collective off-street parking facilities are to serve shall either operate during different hours of the day or night, or shall have peak hour parking demands that do not coincide.
    - 2. Not more than fifty (50) percent of the off-street parking facilities required for churches, bowling alleys, dance halls and establishment for sale and consumption of alcoholic beverages, food, or refreshments may be supplied by off-street parking facilities provided for other buildings.
  - iii. A legally sufficient written agreement assuring the joint usage of said common parking for the combination of uses or buildings shall be properly drawn and executed by the parties concerned, approved as to form and execution by the Commission and Village Attorney, and filed with and made part of the application for a land use permit.
- c. **Off-Street Parking Space Layout, Standards, Construction and Maintenance:**  
Whenever the off-street parking requirements of the Zoning Ordinance require an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:
- i. No parking lot shall be constructed unless and until a permit therefore is issued by the Zoning Administrator and shall be accompanied with two (2) sets of plans for the development and construction of the parking lot showing that the provisions of this Section and referenced sections will be fully complied with.
  - ii. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements.

<b>Parking Pattern</b>	<b>Maneuvering Lane Width</b>	<b>Parking Space Width</b>	<b>Parking Space Length</b>	<b>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</b>
0° (Parallel)	12 feet	8 feet	20 feet	---
45°	12 feet	8 feet + 6 inches	20 feet	47 feet
60°	15 feet	8 feet + 6 inches	20 feet	54 feet
90°	20 feet	9 feet	20 feet	60 feet

*Please see parking layout diagrams on the following page.*



- iii. Each entrance and exit, to and from any off-street parking lot located in the Commercial and Industrial Districts shall be at least twenty-five (25') feet distant from adjacent property located in any single family residential district.
  - iv. Except for those serving single and two-family dwellings, all off-street parking areas shall be screened from view from any adjoining residential property. Screening requirements follow the district requirements for differing adjacent uses. See section 1013 for screening requirements.
  - v. The entire minimum parking area required under this section, including parking spaces, driveways, and maneuvering lanes, shall be provided with asphaltic, concrete or other hard surfacing. The parking area shall be surfaced prior to issuance of a Certificate of Occupancy for the facility which it serves. All parking lots shall be striped according to the approved site plan.
  - vi. Those nonresidential structures in existence and operational at the time of adoption of this Ordinance amendment shall be exempt from the provisions regarding hard surfacing except that asphalt or concrete surfacing shall be required for all parking required as a result of business expansion beyond fifteen (15) percent of the usable floor area of the development existing on-site.
  - vii. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or towards buildings.
  - viii. Except for those serving single and two-family dwellings, all parking shall be provided with wheel stops or bumper guards so located that no part of parked vehicles will extend behind the property lines or beyond the parking surface.
- d. Parking Space Requirements
- i. The minimum number of off-street parking spaces required for any structure or use which is established, constructed, altered or expanded shall be determined in accordance with the schedule in this section.
  - ii. Each parking lot that services a building entrance, except single or two-family residential or temporary structures, shall have a number of level parking spaces for the physically handicapped as set forth in the following table, and identified by above grade signs as reserved for physically handicapped persons.

<b>Total Spaces in Parking Lot</b>	<b>Required Number of Accessible Spaces</b>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

## Parking Space Schedule

Use	Required Parking Spaces
1. One family dwelling or mobile homes.	Two (2) for each dwelling unit.
2. Multiple dwellings.	Two (2) for each dwelling unit.
3. Elderly housing, boarding or lodging houses.	One (1) for each individual living or sleeping unit plus one (1) space for each employee. Should the units revert to general occupancy, then two (2) spaces per unit shall be provided.
4. Hotel and motel.	One (1) for each unit, plus one (1) for each employee on the largest shift, and required parking for accessory uses.
5. Bed and breakfast.	Two (2) spaces plus one (1) additional space for each room to be rented.
6. Inns.	Two (2) spaces, plus one space for each room to be rented plus parking as required for each accessory use.
7. Hospitals.	One (1) for each three (3) patient beds; plus one (1) space for each staff or visiting doctor; plus one (1) space for each employee for the largest shift.
8. Churches.	One (1) for each three (3) seats or per each six (6) feet of pews, whichever is greater.
9. Auditoriums (incidental to schools churches, theaters), or buildings of similar uses with fixed seats.	One (1) for each six (6) seats, plus one (1) additional space for each two (2) employees.
10. Auditoriums (other than incidental to schools), lodge halls or buildings of similar uses without fixed seats.	One (1) for each three (3) persons permitted in such edifice as determined in the capacity limitations, thereof, by the Fire Marshal.
11. Elementary and junior high school.	One (1) for each employee (including teachers and administrators) in addition to the requirements of the auditorium.
12. High schools or business schools	One (1) for each employee (including teachers and administrators) and one (1) for each ten (10) students in addition to the requirements of the auditorium.
13. Libraries, museums, and post offices.	One (1) for each eight hundred (800) square feet of usable floor area plus one (1) for each two (2) employees.
14. Private clubs or lodge halls.	One (1) for each three (3) persons allowed within the maximum occupancy load as established by the Fire Marshal.

15. Private golf clubs, swimming pool clubs, tennis clubs or other similar uses.	One (1) for each two (2) member families or each two (2) individuals anticipated, plus spaces required for each accessory use, such as restaurant or bar.
16. Golf course open to the general public, except miniature golf or "Par 3" courses.	Four (4) for each (1) golf hole and one (1) for each one (1) employee, plus spaces required for each accessory use, such as a restaurant or bar.
17. Miniature or "Par 3" golf course.	Three (3) for each hole plus one (1) for each employee.
18. Stadium, sports area, or similar place of outdoor assemble.	One (1) for each four (4) seats or six (6) feet of benches.
19. Theaters and assembly halls.	One (1) for each four (4) seats plus one (1) for each two (2) employees.
20. Bowling lanes.	Five (5) for each bowling lane plus accessory uses.
21. Dance halls, pool or billiard parlors, roller rinks, banquet halls, exhibition halls, and assembly halls without fixed seats.	One (1) for each three (3) persons allowed within the maximum or skating occupancy as established by Fire Marshal or local, county or state fire, building or health codes, or one for each one hundred fifty (150) square feet of usable floor area, whichever is greater.
22. Restaurants, clubs, establishments for sale and consumption on the premises of beverages, food or refreshments.	One (1) for each one hundred (100) square feet of usable floor area or one (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is greater.
23. Furniture and appliance, household equipment, repair shops, personal service establishments, showroom of a plumber, decorator, electrician or similar trade, shoe repair, similar uses.	One (1) for each one thousand of (1,000) square feet of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein).
24. Automobile service and repair facilities.	Two (2) for each lubrication stall, rack, or pit; one (1) for each gasoline pump and one (1) for each employee.
25. Self-service filling station and convenience store.	One (1) space for each gasoline pump, and one (1) space for each two hundred (200) square feet of usable floor area.
26. Laundromats and coin operated dry cleaners.	One (1) for each two (2) washing and/or dry cleaning machines.

27. Mortuary establishment including funeral homes.	One (1) for each thirty (30) square feet of usable floor area in assembly, parlor, or slumber rooms.
28. Motor vehicle sales and service establishments.	One (1) for each two hundred (200) square feet of usable floor area of sales room, and one (1) for each (1) auto service stall in the service room.
29. Retail stores except as otherwise specified herein.	One (1) for each two hundred (200) square feet of usable floor area.
30. Fast food and drive-in restaurants.	One (1) for each two (2) employees, plus (1) for each two (2) seats intended for patrons within the restaurant building, and one (1) for each twenty (20) square feet of usable floor area available in the order-waiting area.
31. Beauty shops and barber shops.	Two (2) for each of the first two (2) beauty and/or barber shop chairs and one and a half (1 1/2) spaces for each additional chair.
32. Planned commercial or shopping centers.	One (1) for each hundred (100) square feet of usable floor area.
33. Auto wash.	One (1) for each one (1) employee. In addition, adequate waiting space for autos shall be provided on the premises.
34. Banks.	One (1) for each one hundred (100) square feet of usable floor area.
35. Drive-in banks, cleaners and similar businesses.	Storage space for five (5) cars between the sidewalk area and the service window and one (1) for each two (2) employees.
36. Nursery school, day nursery, or child care centers.	One (1) for each three hundred and fifty (350) square feet of usable floor space.
37. Business offices or professional offices except as follows in number	One (1) for each two hundred (200) square feet of usable office floor area.
38. Professional office of doctors, dentists or similar professions.	One (1) for each one hundred (100) square feet of usable floor area or one (1) for each twenty-five (25) square feet in waiting rooms, and one (1) for each examining room, dental chair, or similar use area, whichever is greater.
39. Industrial or research establishments and related accessory offices	Five (5) plus one (1) for every one and one-half (1 1/2) employees in the largest working shift. Space on-site shall also be provided for all construction workers during periods of plant construction.

40. Warehouse and wholesale establishments and related accessory offices.	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every seventeen hundred (1,700) square feet of usable floor space, whichever is greater.
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- iii. Parking spaces for the physically handicapped shall be a minimum of twelve (12') wide and must meet all other applicable requirements as to size as set forth in this section per State requirements.
- iv. The maximum number of parking spaces allowed per site shall be no greater than 15% of the total required minimum spaces. All parking spaces over the minimum number allowed shall utilize pervious pavement in design or another technique under Low Impact Design (LID) that will allow stormwater to infiltrate into the ground in the immediate vicinity of the excess spaces.
- v. The commission may waive the minimum parking spaces required, or permit staging of parking lot construction, upon good cause shown and, in order to preserve natural features, open space, greenbelts or other positive site planning effects.

### **1013) Landscaping, Screening and Buffering**

- A. Landscaping: Single-family and two-family dwellings are exempt from the following provisions.
  - a. General Landscape Requirements
    - i. Landscaping is required for all new commercial and industrial developments or when an existing use is expanded by 25% in total usable floor area or parking area.
    - ii. The layout and design of the landscape areas is flexible to the site design as long as the required amount of plantings are established on site within immediate proximity of the structure or parking areas.
    - iii. Maintenance of all landscape plants, screening and buffering including walls, berms and fences is the responsibility of the property owner. All plant materials, fences and walls must be kept in good condition.
    - iv. Plantings must be established within 6 months of receiving the Certificate of Occupancy.
    - v. Landscape plantings are encouraged to be native to the region.
    - vi. Required landscape plantings within this subsection shall not account for other required plantings for buffers, screening or parking lots as outlined within this section of the ordinance.
    - vii. A site plan displaying all of the landscaping areas including buffer areas and screenings shall be submitted with the land use permit application and other required site plan drawings for medium and detailed site plans.
    - viii. Providing greater amounts than the required landscaping is encouraged.

- ix. The Planning Commission may waive at their discretion certain required amounts of landscaping for industrial developments located within the industrial park.
- x. Landscape requirements for commercial and industrial properties are based off of square footage of the building footprint and shall adhere to the following table.

<b>Square Footage (ft<sup>2</sup>)</b>	<b>Number of Required Shrubs</b>	<b>Number of Required Trees</b>
10,000 ft <sup>2</sup> or less	2	1
10,001 ft <sup>2</sup> to 15,000 ft <sup>2</sup>	4	2
15,001 ft <sup>2</sup> to 20,000 ft <sup>2</sup>	8	4
20,001 ft <sup>2</sup> to 30,000 ft <sup>2</sup>	12	6
30,001 ft <sup>2</sup> to 40,000 ft <sup>2</sup>	16	8
40,001 ft <sup>2</sup> or greater	20	12

**b. Parking Lot Landscape Requirements**

- i. Landscaping is required in parking areas to limit the heat island effect of pavement and concrete.
- ii. Landscaping in parking areas shall be provided for through the establishment of treed islands within the parking lot. Treed islands are to be located on either the outside edges of parking rows or centered within a parking row.
- iii. Parking lot islands are to be a minimum of two-hundred (200 ft<sup>2</sup>) square feet in size with a minimum width of eight (8') feet.
- iv. Parking lot islands are to be provided for at a rate of one island per twenty (20) parking spaces.
- v. Each island must contain one (1) tree of a species that is tolerant of dry and wet conditions.
- vi. Parking lot islands are encouraged to be utilized for stormwater treatment through infiltration where practical.

**B. Screening**

**a. Dumpster and Refuse Area Screening**

- i. All dumpsters, refuse locations, grease and oil receptacles and other outside disposal areas utilized for non-residential uses shall be screened completely from view.
- ii. Dumpsters and refuse areas shall not be placed in a front or roadside yard.
- iii. Screening shall consist of opaque fencing a minimum of 6' in height, which consists of wood, plastic, blocks or similar materials.
- iv. The fencing or wall must contain a gate that is securable from the outside.

**b. Loading Dock Screening**

- i. All loading docks must be placed in the rear or side yard, placement in road side yards is not permitted unless fully screened from view.
- ii. All loading docks adjacent and/or visible to residential areas must be screened from view.

- iii. The screening may consist of a hedge of evergreen shrubs which can reach a sufficient height to completely screen the view of the loading dock from the residential property; or may consist of an opaque fence at least six (6') feet in height that appropriately screens the view.
  - iv. This requirement may be waived by the Planning Commission if perimeter screening required along district boundaries provides adequate view shed protection.
- c. Outdoor Storage
- i. Outdoor storage is not permitted in any front or road-side yard.
  - ii. All outdoor storage must be screened from view from all adjacent properties.
  - iii. Screening for outdoor storage must consist of fencing or wall materials which block complete view of the storage area. Screening shall consist of opaque fencing a minimum of 6' in height, which consists of wood, plastic, blocks or similar materials.

**C. Buffers**

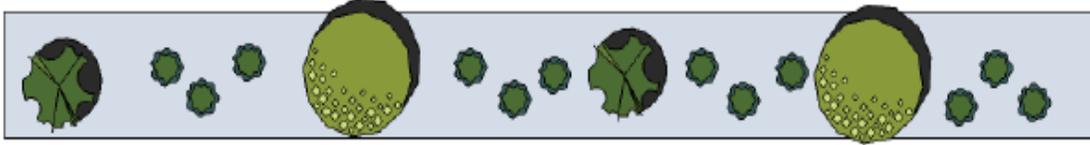
- a. A buffer is a specified land area, located parallel to and within the outer perimeter of a lot and extending to the lot line. A buffer contains specified plantings and/or a wall or berm where additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is separate from a "yard" or "setback" in definition.
- b. District Boundary Buffers
  - i. Perimeter compatibility is required along the boundaries of all incompatible zoning districts (i.e. Residential Zoned Parcel abuts Industrial Zoned Parcel). The following table shall be used to determine the required buffer classification between adjacent districts. The owner of the subject property shall be responsible for the establishment of the buffer.

Subject Property District	Adjacent Property District				
	<b>R-1</b>	<b>C-1</b>	<b>DBD</b>	<b>I</b>	<b>ROS</b>
<b>R-1</b>	--	A	A	C	A
<b>C-1</b>	A	--	--	B	A
<b>DBD</b>	A	--	--	B	A
<b>I</b>	C	B	B	--	C
<b>ROS</b>	A	A	A	C	-

- ii. Credit for existing planting material located in an established buffer area as shown on site plans shall be allocated on a two-for-one basis for canopy trees, understory trees or shrubs. The existing plantings must be in good health and be of sufficient size to provide appropriate buffering.
- c. Buffer Classifications
- i. The following diagrams establish the specific width and plant material for a variety of buffer classifications. The applicant is free to choose from each

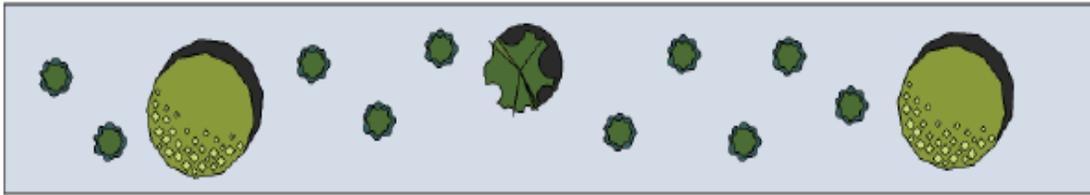
## Class A Buffer

Alternative  
1  
100' length  
10' wide



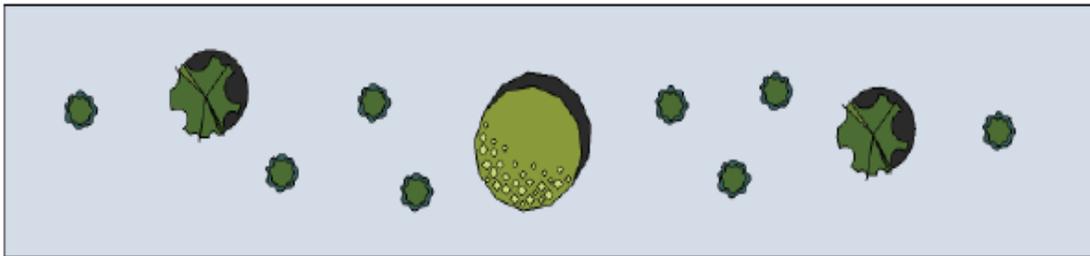
2 canopy trees  
2 understory trees  
12 shrubs

Alternative  
2  
100' length  
15' wide



2 canopy trees  
1 understory tree  
10 shrubs

Alternative  
3  
100' length  
20' wide



1 canopy tree  
2 understory trees  
8 shrubs

## Class B Buffer

Alternative  
1  
100' length  
10' wide



1 evergreen tree  
1 canopy tree  
3 understory trees  
20 shrubs

Alternative  
2  
100' length  
15' wide



1 evergreen tree  
1 canopy tree  
2 understory trees  
16 shrubs

Alternative  
3  
100' length  
20' wide



1 evergreen tree  
1 canopy tree  
1 understory trees  
12 shrubs

## Class C Buffer

Alternative  
1  
100' length  
10' wide



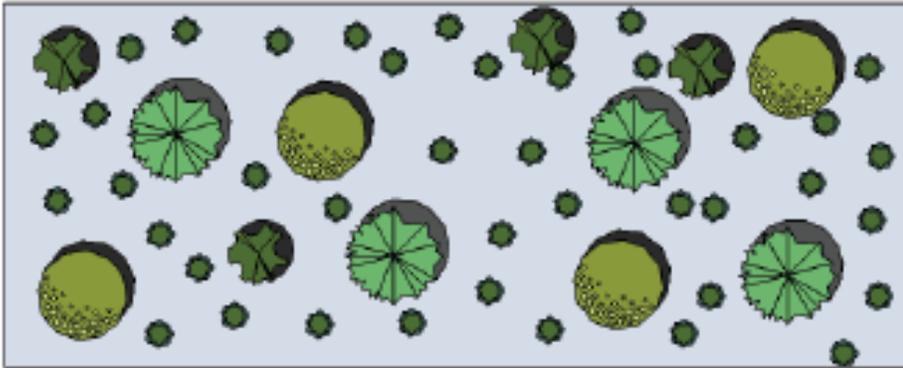
1 Wall  
1 evergreen tree  
1 canopy tree  
3 understory trees  
12 shrubs

Alternative  
2  
100' length  
20' wide



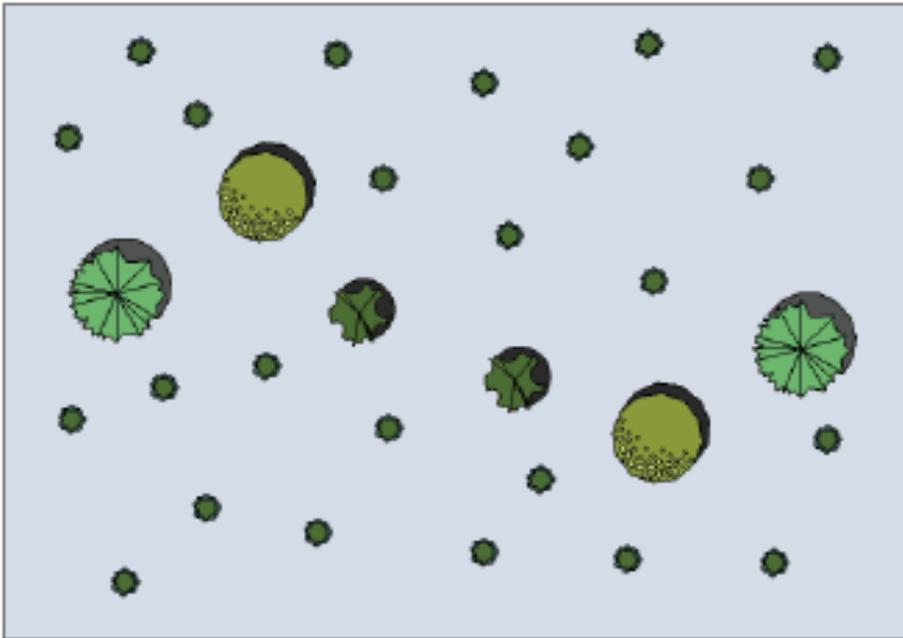
1 Wall or Berm  
1 evergreen tree  
1 canopy tree  
1 understory tree  
12 shrubs

Alternative  
3  
100' length  
40' wide



4 evergreen trees  
4 canopy trees  
4 understory trees  
48 shrubs

Alternative  
4  
100' length  
70' wide



2 evergreen trees  
2 canopy trees  
2 understory trees  
24 shrubs

alternative (1, 2, 3 or 4) in the respective buffer classification A-C. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two understory trees per required canopy tree.

- ii. As determined by the Administrator, a wall or berm meeting the standards of this section may be substituted in lieu of some of the required shrubs in buffer types A and B. A wall or berm is required in alternative 1 or 2 in type C buffers.

**d. Location of Buffer**

- i. Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private road or right-of-way.**
- ii. The required buffer shall be provided along the entire frontage abutting the district boundary or project boundary as applicable. Buffers utilized for industrial districts must also be placed along any dedicated or reserved public or private road right-of-way where a residential or commercial district abuts the road adjacent to the industrial site.**
- iii. A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public roads.**

**e. Plant and Structure Location within Buffer**

- i. Plants shall be located as to achieve the maximum level of protection. Plant material shall meet the buffer requirements every 100 linear feet.**
- ii. Sufficient distance should be provided for the placement of plantings from structures.**
- iii. Where a fence or wall is used as part of a buffer, the plantings accompanying the fence or wall shall be located between the fence or wall and the adjacent property line. Sufficient space shall be provided by the owner of the buffer to access the planting materials from their property for maintenance and care.**
- iv. Where walls are placed within buffers they shall be a minimum of three (3') feet and maximum of six (6') feet in height. They must also meet the following conditions.**
  - 1. Walls shall be constructed of stucco over concrete block, brick, stone, split-faced block or glass block in s a structurally safe and attractive condition.**
  - 2. No wall shall be located in any required drainage, utility or similar easement.**
- v. Where fences are placed within buffers they shall be a minimum of three (3') feet and a maximum of six (6') in height. They must also meet the following conditions.**
  - 1. Fences shall be constructed of high quality materials including wood, plastic or metal (excluding chain link and barb wire).**
  - 2. No fence shall be located in any required drainage, utility or similar easement.**

**f. Additional Provisions**

- i. Buffers may if approved by the Planning Commission, be utilized for the treatment and infiltration of stormwater. As long as the following conditions are met:**
  - 1. The design of the area allows for infiltration of water, resulting in ponding for less than seventy-two (72) hours during average storm events.**

2. Any and all ponding of water from the site that was directed to the buffer area, remains a minimum of five (5') from the adjacent property line.
  3. Water may not cross onto the adjacent property.
- ii. The buffer shall remain in the ownership of the property owner.

## **1014) Building Design**

- A. Applicability: This subsection shall apply to the construction, renovation which expands the usable floor area greater than 25% or redevelopment of:
- a. Nonresidential structures
  - b. Multi-family structures, and
  - c. Residential and nonresidential multi-building complexes
- B. General
- a. Design for buildings within multi-building complexes shall exhibit a unity of design through the use of similar elements such as rooflines, materials, window arrangements, sign location and details.
- C. Facades
- a. All nonresidential road facades may be constructed of the following materials:
    - i. Masonry including brick, stucco, architectural concrete, hardiplank, vinyl or similar siding or stone
    - ii. Wood
    - iii. Non-corrugated metal (for beams, trim elements and ornaments)
    - iv. Glass
  - b. The provisions of this subsection shall not apply to buildings located in the Industrial district or accessory buildings located in the rear yard behind the primary structure constructed on the parcel unless said parcel is part of a larger development.

## **1015) Outdoor Lighting**

- A. Applicability
- a. All existing and proposed developments for which a medium or detailed site plan is required for construction, renovation or redevelopment of a site.
  - b. Buildings and structures lawfully existing as of the effective date of this ordinance may be redeveloped, renovated or repaired without modifying outdoor lighting in conformance of this section as long as the increase in usable floor area or parking area is no greater than 25%.
- B. Prohibited Light Sources
- a. Searchlights or other high intensity narrow-beam fixtures
  - b. Lighting that flickers, flashes, strobes, pulses or operates in similar erratic fashion
- C. Design Requirements
- a. Fixtures
    - i. The light source shall be concealed and shall not be visible from any road right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be full cutoff fixtures.

- ii. Lighting fixtures shall be a maximum of 30 feet in height within parking areas and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas.
  - b. Light Source
    - i. The same light source type shall be used for the same or similar type of lighting on any one site throughout the development.
- D. Excessive Illumination
  - a. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property shall be prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.
  - b. Lighting shall not be oriented so as to direct glare or excessive illumination onto roads in a manner that may distract or interfere with the vision of drivers.
- E. Lighting Plan
  - a. Medium and detailed site plans shall display the location and arrangement of lighting on the site.
- F. Additional Provisions
  - a. The Planning Commission may waive certain requirements of this section if the applicant can display that the lighting arrangement, fixtures and/or design meet the intent of this section.

## 1016) Signs

- A. Applicability
  - a. This section shall apply to commercial and industrial properties within the Village of Kaleva which;
    - i. Are new developments or have renovations which expand the useable floor area or parking area greater than 25%, or sites which are being redeveloped.
    - ii. All existing and proposed developments for which a medium or detailed site plan is required for construction, renovation or redevelopment of a site.
    - iii. This section shall not apply to home occupations.
- B. Permitted Sign Types
  - a. The following types of signs are permitted when in conformance with the requirements of this section:
    - i. Wall/Fascia Sign: A sign attached flat to or mounted away from but parallel to the building wall, projecting no more than twelve (12") inches from the building wall.
    - ii. Projecting Sign: A sign fastened directly to a supporting building wall and intersecting the building wall at a right angle.
    - iii. Monument Sign: A sign attached to the ground that sits atop a pedestal base less than ten (10') feet in height.
    - iv. Pole Sign: A sign attached to the ground by one or more support structures or poles that project the sign upwards to height exceeding ten (10') feet.

- v. **Awning/Marquee/Canopy/Hanging Sign:** A sign which is attached flat to an awning, marquee, or canopy or hanging from an awning, marquee or canopy.
  - vi. **Window Sign:** A sign attached flat but parallel to the inside of the window, this does not include wall/fascia signs.
  - vii. **Decorative Flags or Banners:** Signs mounted within the public ROW displaying non-commercial information, specifically holiday decorations or seasonal banners.
  - viii. **Promotional Banner:** A sign indicating special events such as grand openings, sales or similar non-permanent activity.
- b. **General Sign Standards**
- i. **Computation of Sign Area**
    - 1. The area of a wall sign which consists of individual letters shall be determined by finding the area of the minimum imaginary rectangle or square which fully encloses all sign words, images or message.
    - 2. The area of a sign with three (3) or more sides shall be computed as the sum of the area of each side designed to either attract attention or communicate information.
    - 3. The area of any other sign is measured by finding the area of the minimum imaginary rectangle or square which fully encloses all words, images or message of one side of the sign, outside of the sign supports.
  - ii. **Construction Standards**
    - 1. All signs shall comply with the State of Michigan Building and electrical codes.
    - 2. Signs shall be located in a way that they maintain sufficient horizontal and vertical clearance of all overhead electrical lines and equipment.
    - 3. In no way shall a sign hinder or obstruct the visibility of the right of way in accordance with the requirements of section 1012.C
    - 4. No sign shall be placed within a right-of-way, easement or off premises from the business/industry for it is established.
  - iii. **Number**
    - 1. The number of signs permitted per parcel is two. Except that in the case of multi-tenant businesses such as a strip mall, each business shall be allowed an individual wall sign, and the site shall be allowed one (1) other permitted sign.
  - iv. **Height**
    - 1. The maximum height of any freestanding signs (i.e. monument, pole, decorative flags or banners and promotional banners) shall be no greater than fifteen (15’).
    - 2. No sign shall project above the building roof line, which is measured horizontally from the tallest point of a structurally necessary component of the building.

- v. Size
  1. The maximum sign size shall be twenty-four (24 ft<sup>2</sup>) square feet for each individual sign.
- vi. Materials
  1. Signs shall be constructed of metal, wood, hard plastic or other similar durable material. Signs shall not be constructed of fabric or loose plastic material.
- vii. Illumination
  1. Signs shall not flicker, flash, strobe, pulse or operate in similar erratic fashion.
  2. Signs may have scrolling lit digital text.
  3. Signs may be internally lit, but may not emit a direct beam of light projecting outward from the sign.
  4. Signs may be externally lit, and all lights shall be focused solely on the sign.
- c. Specific Sign Standards
  - i. Projecting Sign
    1. Shall not block entry ways, vehicular drives or pedestrian walkways in a manner that will impede vehicular or pedestrian movement.
  - ii. Monument Sign
    1. Shall be placed on structure of block, brick or similar material.
    2. Shall not exceed 10' in height.
  - iii. Pole Sign
    1. The sign area, excluding support structures, shall be placed at height exceeding ten (10') feet.
  - iv. Awning/Marquee/Canopy/ Hanging Sign
    1. Shall provide a minimum clearance of seven (7') feet from ground level when placed over pedestrian walkways.
    2. Shall provide a minimum clearance of ten (10') feet from ground level when placed over vehicular drives.
  - v. Window Sign
    1. Shall only be allowed to provide coverage of twenty (20%) percent of the glass window area.
    2. Shall be placed only on one (1) window of the structure.
    3. Shall be placed immediately adjacent to the bottom or top of the window frame.
  - vi. Decorative Flags or Banners
    1. Shall only be allowed to be placed within a certain timeframe of the holiday, festival or season with which they are representative as determined by the administrator.
  - vii. Promotional Banner
    1. Shall only be utilized and placed less than fourteen (14) days prior to an event, opening or sale, and must be removed within fourteen (14) days of the end of the event, opening or sale.

- d. Exempt Signs
  - i. Governmental, institutional or other similar signs
  - ii. Flags
  - iii. Traffic and other official agency directional signs
  - iv. Logos placed on vehicles or other machinery for business identification
  - v. Yard sale or similar signs posted for less than thirty (30) days
  - vi. Real estate signs for sale, rent or leasing
    - 1. Real estate signs must be removed within 10 business days after a property has been sold, leased or rented.
    - 2. Only one (1) real estate sign is allowed per parcel
  - vii. Political signs
    - 1. Cannot be placed out until 60 days prior to a primary or general election.
    - 2. Must be removed within 7 days of an election
- e. Prohibited Signs
  - i. Portable signs
  - ii. Roof signs
  - iii. Billboards
  - iv. Windblown signs (banners, pennants, streamers, blimps, gas balloons, etc.)
  - v. Mechanical signs that have motion
  - vi. Copies or imitations of traffic, government or other official signs
  - vii. Off premise signs
  - viii. Signs located in the right-of-way
- f. Maintenance
  - i. Signs shall be kept in quality appearance free of flaking, streaking, faded, cracked, broken or other similar defects as determined by the administrator.
  - ii. Signs shall be kept in proper working order
  - iii. If illuminated, signs shall be kept properly lit during business hours
  - iv. Any and all vegetation around the sign location shall be maintained to keep a quality appearance

### **1017) Sex-oriented Businesses**

- A. Purpose: It is recognized there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious 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 surrounding neighborhoods. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.
- B. A Sex-Oriented Business, in addition to all other applicable standards and regulations of this Ordinance, shall not be located closer than:
  - a. Five hundred (500) feet from a dwelling, duplex, or apartment building.

- b. One thousand (1,000) feet from Camps and Trailer Parks [7212]; Campground; Amusement and Recreation Services [713]; Educational Services [61]; Museums, Art Galleries, Botanical and Zoological Gardens [7121]; Religious Organizations [813110]; Parks-Outdoor Recreation establishments; and other Sex-Oriented Businesses.
- C. A Sex-Oriented Business shall be conducted entirely within an enclosed building, so no activity can be seen from a road or from the property line.
- D. A Sex-Oriented Business shall not have more than one sign, other sign regulations contained in this Ordinance notwithstanding, which shall be affixed to the building in which the Sex-Oriented Business is located within, flush, flat against the side of said building or painted on the side of said building. The sign shall not contain any graphics or drawings, but shall be limited to display of block lettering of various sizes to state the name of business and type of business. The sign shall not flicker, flash, scroll, strobe or utilize similar illumination techniques. The sign shall not exceed thirty-two (32") inches in height and forty-two (42") inches in length and the top of the sign shall not be more than 10 feet higher than the ground.

## **1018) Dwellings**

No person shall use, occupy permit the use or occupancy of a structure as a dwelling, or duplex, which does not comply with dwelling standards of this Ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any district, except in a designated mobile home park, and except as hereinafter provided. All dwelling structures shall comply with the following minimum standards:

- A. No dwelling or duplex shall hereinafter be erected which shall have less than a minimum core area of 20 feet wide by 20 feet long, regardless of the minimum size required in each respective district.
- B. Dwelling or duplex shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under provisions of Public Act 230 of 1972, as amended, being MCL 125.1501 et. seq., including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan building code, then and in that event such federal or state standard or regulation shall apply.
  - a. Foundations: It shall be firmly attached to a permanent foundation constructed on site in accordance with said State Construction Code and shall have the same perimeter dimensions of the dwelling, except cantilevers, and constructed of such materials and type as required in the said State Construction Code for dwellings, or, in the case of mobile homes, that dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission or said State Construction Code, whichever is stricter, and with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis;
  - b. Framing, structural, insulation shall comply with the said State Construction Code, or in the case of mobile homes, shall comply with the "mobile home construction and

- safety standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bears a HUD seal or certification by a certified inspector signifying inspection and compliance with the same;
- c. Final finished; shall comply with the said State Construction Code.
- C. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
  - D. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required in this Ordinance pertaining to such parks.
  - E. All construction required by this section are commenced only after a construction permit has been obtained in accordance with the applicable construction code provisions and requirements.

### **1019) Mobile Homes and Mobile Home Parks**

- A. The following are required for placement of mobile homes in the Village:
  - a. A Mobile Home may only be placed within a licensed mobile home park.
  - b. Licensed mobile home parks may only be sited through the Planned Unit Development provisions of Articles 78 and 79.
  - c. Mobile homes are required to receive a special use permit for the placement of these structures within licensed mobile home parks.
  - d. Mobile homes older than 5 years from the date of the submitted special use application shall not be allowed within the Village.
    - i. The applicant shall provide proof as to the construction date of any mobile home that is to be placed within the Village.
  - e. Mobile Home Parks must provide a Class A boundary buffer as displayed in section 1013 when adjoining any single-family or two-family residential development.

### **1020) Location of Accessory Buildings and Structures**

- A. All accessory buildings and structures shall be in the side yard or rear yard, except when built as part of the main building, or built in a district where land abuts water bodies, in which case said structures shall only be in side yards.
- B. An accessory building attached to the principal building of a parcel shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building.
- C. An accessory building and structure, unless connected with a roof at least four (4) feet wide attached and made part of the principal building as provided, shall not be closer than ten (10) feet to the principal building, and shall meet all setback requirements of the district in which it is to be erected, moved, altered or used.

- D. No accessory building shall be larger than the principal building.
- E. There shall be no more than two (2) accessory buildings per parcel.
- F. An accessory building shall not be placed on any parcel that does not contain a principal structure.
- G. Accessory buildings must conform to the lot coverage standards provided for in the zoning district provisions.
- H. Accessory buildings must be compatible in design with the principal structure.

### **1021) Fences**

- A. Fences shall be allowed to be placed on parcels inside of the property line to a height of six (6') feet. Fences greater than six (6') feet in height must meet the structure setbacks of the district in which they are located. Fences greater than ten (10') feet in height are not allowed within the Village.
- B. Chain-link and barb-wire fences are not permitted in front yards or road yards.
- C. Fences must be maintained in good working and visual condition as determined by the Administrator.
- D. This section shall not prevent the erecting of a fence as required by the Kaleva Village Junk Ordinance number 9 of June 10, 1971, as amended, or Junk Yards Licensing Ordinance Number 2 of June 10, 1949, as amended.

### **1022) Temporary Dwellings**

No person shall use or permit the use of any temporary dwelling or "trailer" as defined in this Ordinance as a principal or seasonal dwelling on any site, lot, field, parcel or tract of land, except:

- A. As temporary quarters during the construction and installation of a dwelling conforming to Section 1016 of this Ordinance when the following conditions are met:
  - a. The location of the temporary dwelling or trailer shall comply with all setback requirements of this Ordinance.
  - b. The use of the temporary dwelling or trailer shall not be contrary to the public health, safety or welfare.
  - c. The use of the temporary dwelling or trailer shall be limited to six (6) months beginning with the issuance of a permit. The permit may be renewed for not more than six (6) months at a time upon approval of the administrator for good cause shown.
- B. As part of a campground licensed by the Michigan Department of Public Health.
- C. As temporary recreation on a non-commercial/no rental basis by tourists, campers and sportsmen on public land where such activity is allowed by state or federal regulations or on one's own land not to exceed a period of one-hundred twenty (120) days in a calendar year.
- D. Storage of temporary dwellings, recreational vehicles, trailers, etc. shall be
  - a. inside a building or in the rear or side yard of the owner's dwelling; and
  - b. no more than six (6) temporary dwellings, recreational vehicles, trailers, ect. shall be stored on an individual parcel utilized for residential use; and
  - c. in compliance with Kaleva Village Junk Ordinance Number 9 of June 10, 1971, as amended.

- d. Unoccupied parking or storage of temporary dwellings on a road or front yard is prohibited.

## **Article 12: Subdivision and Condominium Development Design Standards**

### **1201) Subdivision Traffic ways, Streets and Roads**

- A. Intent: The standards set forth in this Ordinance are for the guidance of sub-dividers and represent desirable and acceptable practices. The required standards for streets, roads and intersections shall be the standards adopted by the Manistee County Road Commission for this Village. Generally, all streets shall be dedicated to public use. Arterial streets shall be dedicated to public use in all cases.
- B. General
  - a. Street Location and Arrangement: When a major street plan has been adopted, subdivision streets shall be required to conform to the plan.
  - b. Local or Minor Streets: Such streets should be so arranged as to discourage their use by through traffic.
  - c. Street and Continuation and Extension: The arrangement of streets should provide for the continuation of streets from adjoining areas into new subdivisions, unless otherwise approved by the Manistee County Road Commission.
  - d. Stub Streets: Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions should be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.
  - e. Relation To Topographic: Streets should be arranged in proper relationship to topography so as to result in usable lots, safe streets, and reasonable gradients.
  - f. Alleys: Alleys are not desirable in areas of detached single or two-family residences. Alleys shall be provided in multiple dwellings or commercial subdivisions unless other provisions are made for service access, off-street loading, and parking.
  - g. Marginal Access Streets: Where a subdivision abuts or contains an arterial street, the Village may require:
    - i. Marginal access streets approximately parallel to and on each side of the right-of-way.
    - ii. Such other treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
  - h. Cul-De-Sac Streets: Cul-de-sac streets should not be more than six hundred (600') feet in length. Longer cul-de-sac streets under certain topographic conditions or other unusual situations will be permissible if approved by the Manistee County Road Commission. Cul-de-sac streets should terminate with an adequate turnaround with a minimum radius of seventy five (75) feet for right-of-way and fifty (50) feet for pavement. Cul-de-sac streets are discouraged unless emergency access is provided to all property in the event the street is blocked for any reason.

- i. Private Streets: Private streets and roads will be permitted where desirable and acceptable to the Commission. All such streets shall be marked, at owner's expense, by a sign, stating the street or road is private. Private streets shall be designed with a sixty-six (66) foot right of way with twenty-four (24) feet of hard surface.
- C. Specifications
- a. Street Right-of-Way Widths: Street and road right-of-way widths shall conform to the rules of the Manistee County Road Commission and the State Department of Highways with the following exception:
    - i. In subdivision or condominium developments, the street or road does not have to be hard-surfaced to Road Commission standards until 90 percent of the residential construction has been completed.
  - b. Street Gradients:
    - i. Maximum Grades: Street grades shall not exceed five (5) percent on either local streets or collector streets.
    - ii. Minimum Grades: No street grade shall be less than zero point five (0.5) percent.
  - c. Street Alignment:
    - i. Horizontal Alignment: When street lines deflect from each other by more than ten (10) degrees in alignment, the centerlines should be connected by a curve with a minimum radius of five hundred (500') feet for arterial streets, three hundred (300') feet for collector streets and one hundred (150') feet for local or minor streets. Between reverse curves, on minor streets, there should be a minimum tangent distance of one hundred (100') feet, and on collector and arterial streets, two hundred (200') feet.
    - ii. Vertical Alignment: Minimum sight distances should be two hundred (200') feet for minor streets and three hundred (300') feet for collector streets.
- D. Street Name
- a. Street names shall not duplicate any existing street name in the County, except where a new street is a continuation of an existing street.
  - b. Street names that may be spelled differently but sound similar shall also be prohibited.

## **1202) Subdivision Intersections**

- A. Angle of Intersection
  - a. Streets should intersect at ninety (90) degrees or closely thereto and in no case at less than eighty (80) degrees.
- B. Sight Triangles
  - a. Minimum clear sight distance at all minor street intersections should permit vehicles to be visible to the driver of another vehicle when each is one hundred twenty-five (125) feet from the center of the intersection.
- C. Number Of Streets
  - a. No more than two (2) streets should cross at any one intersection.
- D. "T" Intersections

- a. Except on arterials and certain collector streets, "T" intersections should be used where practical.
- E. Vertical Alignment of Intersection
  - a. A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section should be carried back fifty (50) feet to one hundred (100') feet each way from the intersection. An allowance of two (2) percent maximum intersection grade in rolling terrain and four (4) percent in hilly terrain is desirable.

### **1203) Subdivision Non-motorized Ways**

- A. Crosswalks: Right-of-ways for non-motorized crosswalks in the middle of long blocks may be required, where necessary as determined by the Administrator, to obtain convenient pedestrian circulation to schools, parks or shopping areas. A right-of-way should be at least ten (10') feet wide and extend entirely through the block.
- B. Sidewalks and Bike Lanes: Sufficient rights-of-way should be provided so that sidewalks or an extended striped shoulder shall be installed on both sides of all streets, unless otherwise determined by the Administrator.

### **1204) Subdivision Easements Location**

- A. Easements shall be provided along rear lot lines and side lot lines for all utilities and stormwater management as necessary. The total width shall not be less than six (6) feet along each lot, or a total of not less than twelve (12') feet for adjoining lots.

### **1205) Subdivision Drainage Way**

- A. The sub-divider shall provide drainage way easements as required by the rules of the Manistee County Drain Commissioner.

### **1206) Subdivision Blocks**

- A. Arrangements: A block should be so designed as to provide two (2) tiers of lots, except where lots back onto an arterial street, natural feature or subdivision boundary.
- B. Minimum Length: Blocks should not be less than five hundred (500') feet long.
- C. Maximum Length: The maximum length allowed for residential blocks shall be one thousand three hundred twenty (1,320) feet from center of street to center of street.

### **1207) Subdivision Lots**

- A. Conform to Zoning: The lot width, depth, and area shall not be less than the particular district requirements of the Ordinance except where outlets are provided for some permitted purpose.
- B. Lot Lines: Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.
- C. Corner Lots: Corner lots shall have extra width to permit appropriate building setback from both streets.
- D. Uninhabitable Areas: Lands subject to flooding or otherwise deemed by the Commission to be uninhabitable shall not be platted for residential purposes, or for uses that may in the judgment of the Commission increase the danger to health, life, or property or

increase the flood hazard. Such land within a subdivision may be set aside for other uses, such as parks or other open space.

- E. Lot Frontage: All lots shall front upon a street or road. Exceptions may be permitted for lots on lakes, rivers or streams. The front line shall be the street or road unless otherwise shown on the plat.

### **1208) Subdivision Lot Division**

The division of a lot in a recorded plat is prohibited, unless approved following application to the Commission. The application shall be filed with the Commission and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into more than four (4) parts and the resulting lots shall be not less in area than permitted by the Zoning Ordinance. No building permit shall be issued, or any building construction commenced, unless the division has been approved by the Village Council after recommendation from the Commission and the suitability of the land for building sites has been approved by the District #10 Health Department. The division of a lot resulting in a smaller area than prescribed herein may be permitted but only for the purpose of adding to an existing lot in the subdivision. The application shall so state and shall be in affidavit form. The Commission or Village Council may impose reasonable conditions on its approval.

### **1209) Subdivision Reserve Strips**

- A. Reserve Strips - Private: Privately-held reserve strips controlling access to streets shall be prohibited.
- B. Reserve Strip - Public: A one (1') foot reserve may be required to be placed at the end of "stub" or "dead-end" streets which terminate at subdivision boundaries and between half-streets. These reserves when required shall be deeded in fee simple to the Village or Manistee County Road Commission for future street purposes.

### **1210) Subdivision Required Public Improvements**

- A. Every sub-divider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:
  - a. Monuments: Monuments shall be set in accordance with the Land Division Act, PA 591 of 1996 , as amended and the State.
  - b. Streets and Alleys: All streets and alleys shall be constructed of a hard surface in accordance with Manistee County Road Commission standards and specifications, except as provided in Section 1201.C. of this Ordinance.
  - c. Installation of Public Utilities: Public utilities and driveways shall be located in accordance with the rules of the Manistee County Road Commission. All utilities must be installed below ground. Underground work for utilities shall be stubbed to the property line.
  - d. Driveways: All driveway openings in curbs shall be as specified by the Manistee County Road Commission or the Michigan Department of Transportation.
  - e. Storm Drainage: An adequate storm drainage system shall be required in all subdivisions. The minimum requirements for each particular subdivision shall meet or exceed the requirements of the Manistee County Drain Commission. All drainage shall be on land contained in the plat. Construction shall follow the

specifications and procedures established by the Manistee County Drain Commissioner. All proposed storm drainage construction plans for proposed plats shall be prepared by the sub-divider.

- f. **Water Supply System:** Proposed subdivisions are to be serviced by the Village public water supply system, a sub-divider may be required to provide fire hydrants and other required water system appurtenances.
- g. **Sanitary Sewer System:** When a proposed subdivision is to be serviced by a public sanitary sewage system, the sub-divider shall provide sanitary sewers and other required appurtenances thereto. Sewer systems shall comply the requirements of P.A. 98 of 1913, as amended.
  - i. If there is no existing or accessible public sewer system, the sub-divider may be required to provide a sewer system for the common use of the lot owners, if feasible, in the judgment of the Commission with the advice of the District #10 Health Department and shall comply with the requirements of P.A. 98 of 1913, as amended.
  - ii. Where in the judgment of the Commission, with the advice of the District #10 Health Department, it is determined that a subdivision cannot be economically connected with an existing public sewer system or that a public sewer system cannot be provided for the subdivision itself, then septic tanks and disposal fields may be approved so long as they shall comply with the requirements of the District #10 Health Department.
  - iii. However, where studies by an engineer selected by the Village indicate that construction or extension of sanitary trunk sewers to serve the property being subdivided appears probable within a reasonably short time (up to three (3) years), sanitary sewer mains and house connections shall be installed and capped.
- h. **Street Name Signs:** Street name signs shall be required to be installed in the appropriate locations at each street intersection in accordance with the requirements of the Manistee County Road Commission.
- i. **Sidewalks and Crosswalks:** Sidewalks shall be required on one side of the street or striped bike lanes on each side of the street in developments with lots typically under one-half acre.
- j. **Buffering:** It is desirable for the protection of residential properties to have buffering or landscaped screen plantings located between a residential development and adjacent major arterial streets, businesses, commercial areas, and railroad rights-of-way. Perimeter buffers must be planted in accordance with the requirements of Article 10 section 1013.
- k. **Street Trees:** Street trees of a variety and size approved by the Commission may be planted between the street curb and sidewalk or feasible location of the sidewalk if not required. The location of street trees shall be approved by the Manistee County Road Commission so as not to interfere with clear vision areas. It is the intention of the Village that development shall result in no net tree loss, when possible.
- l. **Street Lighting:** Streetlights may be required to be installed, at intersections only, throughout the subdivision. In these cases, a sub-divider shall conform to

the requirements of Article 10 section 1015 and the public utility company providing such lighting.

- m. Maintenance Program: If streetlights, sewers, water systems, parks or buffer areas are contained within a plat either by requirement or desire of the sub-divider, a permanent maintenance program must be set up before the sale of the fifth (5th) lot.
- n. Dead End Roads: Dead end roads may be permitted if cul-de-sacs meet or exceed Manistee County Road Commission standards, and if the road is no longer than one hundred fifty (150') feet.
- o. Driveway Entrance: There shall be no more than one driveway entrance to a county primary road each four hundred (400') feet.
- p. Connection To Future Roads: All streets, drives, roads, etc. abutting undeveloped or un-platted land must be shown to be capable of connecting to future roads.

### **1211) Subdivision Guarantee of Completion of Improvements Required By the Village**

- A. Financial Guarantee Arrangements, Exceptions: In lieu of the actual installation of required public improvements, the Village Council upon recommendation of the Commission may permit the sub-divider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and above the requirements of the Manistee County Road Commission, Manistee County Drain Commissioner or any other agency responsible for the administration, operation and maintenance of the applicable public improvement. The Village Council may waive financial guarantees of performance under this Ordinance for sidewalks, streetlights, or street trees. In case these improvements are specified, completion may be required prior to the issuance of land use permits.
- B. Performance or Surety Bond:
  - a. Accrual: The bond shall accrue to the Village, covering construction, operation and maintenance of the specific public improvement.
  - b. Amount: The bond shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the Commission.
  - c. Term Length: The term length in which the bond is in force shall be a period to be specified by the Village Council for the specific public improvement.
  - d. Bonding Or Surety Company: The bond shall be with a surety company authorized to do business in the State of Michigan, acceptable to the Village Council.
- C. Cash Deposit or Certified Check:
  - a. Treasurer, Escrow Agent Or Trust Company: A cash deposit or certified check qualifies as surety acceptable by the Village Council. This surety shall be accepted as sufficient surety by the Village Council and shall accrue to the Village. These deposits shall be made with the Village Treasurer, or deposited with a responsible escrow agent, or trust company, subject to the approval of the Village Council.

- b. Dollar Value: The dollar value of the cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the Commission.
- c. Escrow Time: The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period to be specified by the Village Council.
- d. Progressive Payment: In the case of cash deposits or certified checks, an agreement between the Village and the sub-divider may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with an agreement previously entered.

### **1212) Subdivision Inspection of Public Improvements Under Construction**

- A. Before final approval of a plat, an agreement between the sub-divider and the Village Council shall be made to provide for checking or inspecting the construction of public improvements and conformity to plans.

### **1213) Subdivision Public Improvement; Penalty; Failure to Complete**

- A. In the event the sub-divider shall, in any case, fail to complete such work within the period of time required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. To accomplish this, the Township Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the sub-divider shall have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company.
- B. The Village is not responsible for the enforcement of plat restrictions.

### **1231) Condominium Application**

The following regulation shall apply to all condominium developments within the Village.

### **1232) Condominium General Requirements**

All condominium developments within the Village shall be subject to all requirements and standards of the applicable zoning district, except as specifically provided herein. All condominium developments shall also be serviced by the Village public water supply and public sanitary sewage system where available, except in accordance with Section 71a of the Condominium Act, Act 59 of 1978, as amended.

### **1233) Condominium Initial Information**

Concurrently with notice required to be given to the Village, pursuant to Section 71 of PA of 1978, as amended (The Condominium Act), a person, firm, corporation intending to develop a condominium development in the Village shall provide the following information:

- A. The name, address, and telephone number of:
  - a. All persons, firms, or corporations with any ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
  - b. All engineers, attorneys, architects, or registered land surveyors associated with the project.
  - c. The developer or proprietor of the condominium development.
- B. The Legal description of the land on which the condominium development will be developed together with any proposed expansion plans and appropriate tax identification numbers.
- C. The acreage of the land on which the condominium development will be developed.
- D. The purpose of the development (for example, residential, commercial, industrial, etc.).
- E. Approximate number of condominium units to be developed on the subject parcel.

### **1234) Condominium Information to be Kept Current**

The information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a Certificate of Occupancy has been issued.

### **1235) Condominium Site Plans for New Projects**

Prior to recording of the Master Deed required by Section 72 of PA 59 of 1978, as amended, the condominium development shall undergo site plan review and approval pursuant to Article 94 of this Ordinance. The Village may require appropriate engineering plans prior to site plan approval..

### **1236) Condominium Site Plans for Expandable or Convertible Project**

Prior to expansion of or conversion to a condominium development, the project shall undergo site plan review and approval pursuant to article 94 of this Ordinance.

### **1237) Condominium Master Deed, Restrictive Covenants, and "As Built" Survey**

- A. The condominium development developer or proprietor shall furnish the Village with the following:
  - a. Three (3) copies of the Master Deed;
  - b. Three (3) copies of all restrictive covenants; and
  - c. Two (2) copies of an "as built" survey.
- B. One (1) copy of each of the above shall be provided to the Zoning Administrator,, one (1) copy to the Village Assessor, and one (1) copy for the Chief of the local fire department.
- C. The "as built" survey shall be reviewed by the Zoning Administrator for compliance with Township Ordinances. Fees for this review shall be established by resolution of the Township Board.

### **1238) Condominium Monuments Required**

All condominium developments, which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection.

- A. All monuments used shall be made of solid iron or steel bars at least one-half (1/2") inch in diameter and thirty-six (36") inches long and completely encased in concrete at least four (4") inches in diameter.
- B. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys and at all angles of an intermediate traverse line.
- C. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
- D. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
- E. If a point required to be monument is on bedrock outcropping, a steel rod, at least one half (1/2") inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8") inches.
- F. All required monuments shall be placed flush with the ground where practicable.
- G. All units corners and the intersection of all limited common elements and all common elements shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18") inches long and one-half (1/2") inch in diameter, or other approved markers.
- H. The Village Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Village Clerk cash or a certified check, or irrevocable bank letter of credit to Village of Kaleva, whichever the proprietor selects in an amount to be established by the Village Council. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

### **1239) Condominium Compliance with Federal, State, and Local Law**

All Condominium developments shall comply with Federal and State statutes and local ordinances.

### **1240) Condominium Occupancy of Condominium Development**

The Zoning Administrator may allow use of the condominium development before all improvements required by this Ordinance are installed provided that cash, a certified check, or

an irrevocable bank letter of credit is submitted in an amount approved by the Village Council sufficient to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit without expense to the Village.

### **1241) Condominium Single-Family Detached Condominiums**

- A. Single-family detached condominium developments may be located in any district that permits single family dwellings and shall be subject to all requirements and standards of the applicable residential district.
- B. Roadways within a single-family condominium project shall be constructed in accordance with minimum road standards contained in Article 10 Section 1012. of this Ordinance.
- C. The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, water courses, and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required.
- D. Walkways shall be installed in all single family detached condominium developments. Such walkways shall be a minimum of three (3') feet in width and be so located as to provide access to all general common areas. Upon review of the site plan, the Commission may approve alternate locations for the walkways or may waive the walkway requirement if it would not serve the purpose of providing adequate pedestrian circulation.
- E. All unimproved surface area of the site shall be planted or natural vegetation, except that patios, terraces, decks, and similar site features may be allowed.
- F. Utilities
  - a. An adequate storm drainage system including necessary storm sewers, catch basins, manholes, culverts, bridges, and other appurtenances shall be required in all developments.
  - b. A sanitary sewer system shall be required as regulated by the District 10 Health Department.
  - c. A water supply system shall be required as regulated by the District 10 Health Department.
  - d. The proprietor shall make arrangements for all lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout the development area, and such conduits or cable shall be placed within private easements provided to such service companies by the developer or within dedicated public ways, provided only that overhead lines may be permitted with the approval of the Commission at the time of site plan approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, design, and character of the development. This provision shall not apply to overhead lines which existed at the time of this Ordinance adoption.
  - e. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed

in accordance with standards of construction approved by the Michigan Public Service Commission. All drainage and underground utility installations which traverse privately held property shall be protected by easements granted by the proprietor.

#### **1242) Condominium Final Documents To Be Provided**

After submittal of the condominium plan and by-laws as part of the Master Deed, the proprietor shall furnish to the Village a copy of the site plan on a Mylar sheet of at least thirteen (13") inches by sixteen (16") inches with an image not to exceed ten and one-half (10.5") inches by fourteen (14") inches.

## **Article 16: Specific Use Standards**

### **1601) Purpose**

In addition to the general standards contained in Article 10, there are specific uses that must meet the additional requirements of this article in order to receive issuance of a land use permit. When conflicting requirements are observed between the provisions of this section and that of other sections, the requirements of this section shall apply for the particular use.

### **1602) Campgrounds**

- A. The location of a campground shall front or have public access to a public road or the developer shall agree to provide the funds to upgrade or will upgrade a private road to a public road.
- B. The campground shall conform to all applicable regulations of any rules promulgated by the Michigan Department of Health under authority of section 1201 et. seq. of Public Act 368 of 1978, as amended, being the Michigan Health Code, being MCL 333.1201 et. seq.).
- C. The application for a land use permit for a campground shall contain all the elements and parts which are required by the Health Department for a campground license under authority of section 1201 et. seq. of Public Act 368 of 1978, as amended, being the Michigan Health Code, being MCL 333.1201 et. seq.), in addition to the Special Use Permit application requirements presented in this Ordinance.
- D. The minimum parcel area shall not be less than (X) square feet, where (X) equals 2,000 times the number of proposed campsites.
- E. Spaces in the campground shall be only rented on a day(s), week, or month basis, but not on a permanent basis.
- F. Management headquarters, recreation facilities toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses provided:
  - a. such establishments and the parking area primarily related to their operations shall not occupy more than ten (10) percent of the campground.
  - b. such establishments shall be restricted in their use to occupants of the campground and their guests.
  - c. such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the campground and their guests.
- G. No space shall be so located so any part intended for occupancy for sleeping purposes shall be within one hundred (100) feet of the right-of-way line of any road. Setback spaces may be reduced if occupied by plant material and/or a berm. In no case shall the setback be less than 40 feet, and allowed only in instances when screening is an opaque fence or berm. In all cases, plant materials shall be maintained in a setback area. Plant materials shall be of sufficient size when installed to assure immediate and effective screening of the campground from adjacent roads and properties. The plans and specifications for a campground shall include the proposed arrangement of such plantings.

## **1602) Mobile Home Parks**

- A. All proposed mobile home parks must go through the planned unit development process outlined in articles 78 and 79 of this ordinance.
- B. The location of a mobile home park shall front or have public access to an existing paved or blacktopped surfaced county road, existing state trunkline, existing county primary road or the developer shall agree to provide the funds to upgrade or will upgrade an existing county or private road to a county road which is paved, blacktopped, or to a county primary road.
- C. The mobile home park shall conform to all applicable regulations of the Michigan Mobile Home Commission Rules promulgated by the Michigan Mobile Home Commission under authority of, Public Act 419 of 1976, as amended, being the Mobile Home Commission Act, MCL 125.1101 et. seq., and thus mobile homes which locate within said mobile home park shall be exempt from Dwelling Regulations, above.
- D. The mobile home park shall provide at least two (2) 'entrances/exits' to a state trunk line or county road.
- E. The application for a Planned Unit Development for a mobile home park shall contain all the elements and parts which are required by the administrative rules of the Michigan Mobile Home Commission promulgated pursuant to Public Act 419 of 1976, as amended, being the Mobile Home Commission Act, MCL 125.1101 et. seq., for an application for license to operate a mobile home park in addition to the Special Use Permit application requirements presented in this Ordinance.

## **1604) Manufacturing, Trucking and Warehousing**

For Manufacturing [31-33] and Trucking and Warehousing [484, 488490, 491, 492 and 493]:

- A. The use and associated activity is carried on entirely within an enclosed building, and, if there is a yard work area and storage area, it shall be enclosed as specified below. Whenever the Manufacturing [31-33] and Trucking Warehousing [484, 488490, 491, 492 or 493] property boundary is contiguous to another type of land use, then along that property boundary there shall be:
  - a. A buffer in conformance with the provisions of Article 10 section 1013.
- B. Odor shall not be detectable by normal human senses under normal operational circumstances at a distance of six hundred (600') feet from the manufacturing (31-33) and trucking and warehousing (484, 488490, 491, 492 and 493) establishment.
- C. Noise shall not be over 60 decibels at the parcel boundary.
- D. A pollution incident prevention plan, if required by state or federal regulation, and fiscal impact study may be required by the Commission to obtain additional information needed to make a determination of compliance with the standards, requirements and purposes of this Ordinance.
- E. Upon review of the land use application, the Commission may require upgrading of roads from the proposed establishment to the closest road already constructed to adequately service anticipated traffic. Upon mutual agreement between the Commission and applicant, upgrading of road(s) to a more distant road already constructed to adequately service anticipated traffic may be required. The cost of upgrading of roads shall be the responsibility of the applicant.

## **1605) Junkyards/Salvage Yards**

Junkyard/Salvage yards must have the following.

- A. Michigan Sales Tax license;
- B. Be designed to have a buffer area to screen from the view of a road and from adjacent parcels in conformance with the requirements of a Class B Buffer found within Article 10 section 1013, unless directed otherwise by the district boundary requirements of that section;
- C. Shall comply with all federal, state, and local licensing requirements, laws and regulations, as amended.
- D. Shall not operate a landfill as defined and regulated under the Natural Resources and Environmental Protection Act, Public Act No. 451 of 1994, as amended, as an accessory function to a junkyard;
- E. Shall be more than one thousand (1,000) feet from a school, campground, or park.

## **1607) Adult Foster Care Facilities**

- A. Section 206 of the Michigan Zoning Enabling Act states that a state licensed residential facility providing supervision or care or both to six (6) or fewer persons shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to a Special Land Use permit or procedure different from those required for other dwellings of similar density in the same zone. Section 206 further states that this shall not apply to adult foster care facilities licensed by a state agency for care and treatment of person released from or assigned to adult correctional institutions.
- B. Adult foster care family homes shall be permitted uses in all residential districts. However, adult foster care facilities (over six residents) shall be required to apply for a Special Land Use permit.
- C. The following standards shall be applied to adult foster care facilities:
  - a. One (1) on-site parking space shall be provided for each employee on the largest shift in addition to the parking required for the dwelling unit or other accessory uses.
  - b. A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the facility.
  - c. A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
  - d. A landscaped buffer in conformance with the requirements of a Class A Buffer in Article 10 section 1013 shall be provided along all property lines that abut a less intense use and around the visible perimeters of all parking and loading/unloading areas.
  - e. All exterior lighting of entryways, parking spaces, or loading/unloading areas shall not reflect onto adjacent properties and, preferably, should be motion activated.

## **1608) Vehicle Sales, Storage**

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. The lot or area upon which new and/or used automobiles, recreation vehicles, trucks, and trailers are placed shall be hard surfaced.

- C. Ingress and egress shall be at least sixty (60') feet from the intersection of any two streets.
- D. No major repair or major refinishing to a vehicle shall be conducted on the subject site. All service and minor repair facilities shall be located within an enclosed building. Damaged vehicles and/or vehicles waiting for minor repair may be stored outside provided such storage area is screened by an obscuring wall six (6') feet in height. There shall be no outdoor storage of materials.

### **1609) Vehicle Filling Stations and Accessory Retail Uses**

- A. No repair work shall be permitted, other than incidental service, such as the addition of motor oil, windshield/wiper fluid or transmission fluid.
- B. For facilities consisting of any underground storage tanks, the site shall be three hundred (300') feet from any residential well, eight hundred (800') feet from a non-community public water well and two thousand (2,000') feet from any public water well.
- C. No steam cleaning or undercoating shall be permitted.
- D. A principal building, of not less than four hundred (400) square feet in area, shall be required.
- E. Minimum lot area shall be fifteen thousand (15,000) square feet. For each additional accessory use such as, but not limited to, a fast-food restaurant, car wash, or convenience store, an additional five thousand (5,000) square feet of lot area shall be provided. In no instance shall the percentage of building coverage on site exceed thirty five (35) percent.
- F. Minimum lot width and frontage shall be not less than one hundred and fifty (150') feet.
- G. A building shall be located more than fifty (50') feet from any right-of-way line.
- H. All ingress and egress to the site shall be directly from a hard surfaced street, or from a shared access drive to such roadway. Access drives shall not be more than thirty (30') feet in width.
- I. Not more than two (2) driveways onto adjacent roadways shall be permitted per road frontage. Curb cuts shall not be permitted where, in the opinion of the Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
- J. No drive or curb opening shall be located closer than twenty-five (25') feet to any intersection or adjacent residential property line, as measured along the property line. No drive shall be located closer than thirty (30') feet, as measured along the property line, to any other drive on the premises. No drive shall be located less than ten (10') feet from any lot line, as measured along the property line, unless a shared drive with the adjacent parcel is utilized.
- K. All motor vehicle washing equipment shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15') 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 encroaching upon any public sidewalk, street or right-of-way.
- L. All outside storage areas for trash, auto parts and similar items shall be enclosed by a six (6') foot obscuring wall with such storage being located in the rear yard.
- M. The site shall be no less than two hundred (200') feet from any place of public assembly, including any hospital, sanitarium, school, church, or other institution. Measurement shall be the closest distance between the pump islands and the exterior wall of the building used for public assembly.

- N. There shall be no aboveground outdoor storage/dispensing tanks on site.
- O. Restroom doors and/or service bay doors shall not be visible from adjacent residential districts.
- P. A permanent covered structure shall be provided over that portion of the pump island and drive area of any station wherein customers are required to dispense fuel into their own vehicles on a self-service basis. Such structure shall not be enclosed by walls and shall be provided with a minimum clearance of thirteen feet, six inches (13' 6") between the underside of the roof structure and the drive surface. For purpose of this Ordinance, setback requirements shall not apply to canopies; however, in no instance shall they extend beyond the property line.
- Q. Auto wash facilities, when established in connection with the principal use on the same zoning lot, shall comply with the following standards:
  - a. All washing activities must be carried on within an enclosed building.
  - b. Vacuuming activities shall be at least fifty (50') feet distant from any adjoining residential zone.
  - c. The entrances and exits of the wash facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.
  - d. Provision shall be made for the drying of the vehicle's undercarriage during freezing weather prior to entering the public thoroughfare for all automatic auto wash facilities. In addition, such auto washes must also install underground heating elements at each vehicle exit to prevent icing at grade. There shall be provided no fewer than three (3) stacking spaces for each automatic wash lane.
  - e. Vehicle stacking spaces shall be clearly separated from pump islands and from routes necessary for entering and exiting the property, and in a manner which precludes pedestrians from traversing through such space.
- R. Convenience stores and/or fast food restaurants, when established in connection with the principal use on the same zoning lot, shall comply with the following standards:
  - a. Buildings shall be so arranged on site in a manner that screens any drive-through lanes from adjoining residentially zoned land.
  - b. Drive-through lanes shall be separated from pump islands and from routes necessary for entering and exiting the property.
  - c. Customer parking for convenience store and/or fast food use shall be located on the site in a manner which precludes pedestrians from traversing through drive-through lanes and off-street loading zones.
  - d. Loading zones shall be restricted to the rear or side yards.
  - e. There shall be provided no fewer than five (5) stacking spaces for the drive-through lane.
  - f. Food service areas shall be physically separated from vehicle repair and service facilities.
  - g. The sale of snack food items, commonly consumed by travelers (e.g., pop, candy, packaged snacks and goods dispensed through a vending machine), bread, milk, juice, cigarettes and sundry items shall be permitted as part of an

Automobile Filling Station or Automobile Service Facility provided that the sale of such items is clearly incidental to the sale of vehicular fuel and lubricants, minor parts and accessories; and further provided that the area used for the sale and storage of food and sundry items does not exceed a usable floor area of five hundred (500) square feet.

- S. On-site parking shall equal be equal to the greatest number of parking spaces required by any one (1) of the specific uses.

## **1610) Vehicle Service and Repair Facilities**

### **A. Locational Requirements:**

- a. For facilities including any underground storage tanks, the site shall be three hundred (300') feet from any residential well, eight hundred (800') feet from a non-community public water well and two thousand (2,000') feet from any public water well.
- b. All ingress and egress to the site shall be directly from a hard surfaced street, or from a shared access drive to such roadway.
- c. No driveway or curb cut shall be located less than ten (10') feet from any lot line, measured from the edge of the driveway to the lot line, unless a shared drive with adjacent parcel is utilized.
- d. No more than two (2) driveways onto a roadway shall be permitted per site. Driveway approach width shall not exceed thirty (30') feet.
- e. Minimum lot area shall be fifteen thousand (15,000) square feet.

### **B. Site Requirements:**

- a. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15') 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 encroaching upon any public sidewalk, street or right-of-way.
- b. Any stored items may not be stacked higher than the enclosing wall height. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted for a period exceeding five (5) days.
- c. The minimum lot width and frontage shall be two hundred (200') feet.
- d. The entire area used for vehicle service shall be hard surfaced and adequately drained.
- e. All outside storage areas for trash, auto parts and similar items shall be enclosed by a six (6') foot wall with such storage being located in the rear yard.

### **C. Performance Standards:**

- a. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
- b. Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than thirty (30) days and then only for the purpose of temporary storage pending transfer to a junkyard. Such storage shall not occur in front of the building.

- c. The sale or leasing of new or used cars, trucks, trailers, and any other vehicles on the premises is expressly prohibited.
- d. No public address system shall be audible from any abutting residential parcel.
- e. All floor drains shall be connected to a public sanitary sewer system with the approval of the sewer authority or connected to an approved holding tank.

## **1611) Bed and Breakfast Operations**

### **A. Site Requirements:**

- a. A bed and breakfast operation shall provide off-street parking spaces in the amount of two (2) spaces for the home owner plus one (1) space for each guest sleeping room. Off-street parking shall be located in a side or rear yard and shall be prohibited from being located in a front yard. Parking spaces shall be setback a minimum of fifteen (15') feet from any property line. The Commission may require landscaping to screen required parking areas, if such areas are deemed to impact adjacent properties.
- b. The parcel on which the establishment is to operate must meet or exceed the minimum lot area requirements of the zoning district.

### **B. Performance Standards:**

- a. The bed and breakfast facility must be a single-family dwelling which is operated and occupied by the owner of the dwelling. No more than two (2) non-resident persons may be employed by the business.
- b. The applicant shall provide a scaled floor plan of the premises as part of the Special Land Use application.
- c. The exterior appearance of the structure shall not be altered from its single-family character.
- d. The impact of the bed and breakfast establishment on the neighborhood shall be no greater than that of a private home with weekend guests.
- e. One freestanding or mounted sign is permitted providing:
  - i. It is for identification purposes only.
  - ii. It is not internally illuminated and does not exceed nine (9) square feet.
  - iii. If freestanding, does not exceed a height of five (5) feet from ground base to top.
- f. No separate or additional kitchen facilities shall be provided for the guests.
- g. Retail sales are not permitted beyond those activities serving overnight patrons.
- h. Breakfast shall not be served to the public at large but only to guests. Service of other meals is prohibited.
- i. Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.
- j. Bed and breakfast operations, including rooms for guest sleeping, shall be part of the principle place of residence of the owner. Rooms for guest sleeping shall not have been specifically constructed for rental purposes unless constructed in keeping with the style of the existing structure.

- k. Bed and breakfast operations may have up to eight (8) guest sleeping rooms, and shall have at least one additional full bathroom facility for every two (2) guest sleeping rooms.
- l. All sleeping rooms and areas shall have a fully functional smoke detector inspected and approved by the Manistee Township Fire Department.
- m. A bed and breakfast operation shall provide a minimum of two (2) exits to the outdoors.
- n. The application for a bed and breakfast operation shall be accompanied by the following:
  - i. A site plan subject to the requirements for site plan review.
  - ii. A floor plan of the residence showing those rooms and/or areas that will be used by guests (i.e., sleeping rooms, bathrooms, dining areas, etc.), including dimensions and floor area calculations, and the location of required exits and smoke detectors.
  - iii. Completed applications for health department approval and any other local or state permits which may be required.

### **1612) Car Wash**

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. Minimum lot size shall be ten thousand (10,000) square feet.
- C. All washing activities must be carried on within a building.
- D. Vacuuming activities shall be at least fifty (50') feet distant from any adjoining residential zone.
- E. The entrances and exits of the wash facility shall be from within the lot and not directly to or from an adjoining street. A street shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.
- F. There shall be provided two (2) vehicle stacking spaces for each self-serve wash stall, not containing the vehicle wash or vacuum area.
- G. All off street parking areas and maneuvering lanes shall be drained so as to preclude drainage of water onto adjacent property and public rights of way.

### **1613) Cemetery**

- A. The minimum lot or parcel size shall be twenty (20) acres.
- B. No more than five (5) percent of the site area may be occupied by buildings.
- C. All ingress and egress shall be directly from a hard surfaced street.
- D. All burial plots and all structures including but not limited to a mausoleum shall be set back no less than fifty (50') feet from any lot line or road right of way.
- E. Adequate parking shall be provided on the site, at least fifty (50') feet from any lot line, and no cemetery parking shall be permitted on any public street.
- F. Buffering requirements. A greenbelt, as selected by the Planning Commission from among those provided in Article 10 section 1013, shall be constructed around the perimeter of the cemetery.
- G. Performance Standards: All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the District #10 Health Department and the State of Michigan.

### **1614) Churches, Synagogues, Temples, and Other Places of Worship, including other facilities normally incidental thereto**

- A. The site shall have at least one lot line on a hard surfaced street.
- B. All ingress and egress to the site shall be directly from a hard surfaced street.
- C. The minimum area shall be two (2) acres, unless the site is a reuse of an existing commercial facility.
- D. No building shall be closer than fifty (50') feet from any lot line or right-of-way.
- E. No more than twenty five (25) percent of the site area shall be covered by buildings. No more than sixty (60) percent of the site shall be covered by impervious surface.
- F. No building shall be erected to a height greater than that permitted in the district in which it is located. Any spire is excluded.
- G. Any yard or open space shall be landscaped.
- H. Buffering Requirements: Parking areas shall be screened from adjacent residential areas with a class A Buffer pursuant to Article 10 section 1013. of this Ordinance.
- I. No day care center, private school, or other use requiring a special use permit shall be allowed without a separately approved special use permit for each use.

### **1615) Convalescent and Nursing Homes**

- A. All convalescent or nursing homes shall be constructed on parcels of at least two (2) acres.
- B. There shall be provided a minimum of one thousand five hundred (1,500) square feet of open space for each one (1) bed in a Nursing Home. The one thousand five hundred (1,500) square feet of open space per bed or unit shall provide for landscaping, off-street parking, service drives, loading space, yard requirements, and required accessory uses but shall not include the area covered by main or accessory buildings.
- C. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed twenty five (25) percent of the total site not including any dedicated public right of way.
- D. All ingress and egress to the site shall be directly from a hard surfaced street.
- E. No building shall be closer than forty (40') feet to any lot line.
- F. All such complexes shall provide for common service areas containing, but not limited to, central dining rooms, recreational rooms, and lounge areas.
- G. In the case of housing complex for the elderly, minimum dwelling unit size shall be four hundred (400) square feet of living area per unit.
- H. All facilities shall be licensed by the Michigan Department of Community Health and shall conform to applicable State and Federal laws.

### **1616) Building Contractor's Yard, including other special trade contractors**

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. Required outdoor storage of motorized vehicles, generators, or other equipment used in connection with the business shall be contained within a screened area of the lot, in the side or rear yard.

- C. Materials used in connection with the business shall be confined to the screened area in the side or rear yard or within an enclosed building.
- D. No outside work in connection with the business shall be permitted except for emergency conditions, for which approval by the Zoning Administrator is required.

### **1617) Greenhouses/Nurseries (Commercial)**

- A. The minimum area shall be two (2) acres.
- B. All ingress and egress to the site shall be directly from a hard surfaced street.
- C. The storage or display of any materials shall conform to all building setback requirements of a structure.
- D. All parking and loading shall be provided off-street.
- E. The parking area shall be designed so as not to disrupt abutting residences with noise or headlights.

### **1618) Day Care, Group Home**

- A. Location Requirements.
  - a. Group day care homes shall not be located closer than one thousand five hundred (1,500) feet to another licensed group day care home, adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, PA 218 of 1979, MCL 400.701 et seq., a facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under article 6 of the Michigan Public Health Code, PA 368 of 1978, MCL 333.6101 et seq., or a community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. Site Requirements:
  - a. All outdoor play areas shall be enclosed with fencing, a minimum of four (4') feet high.
  - b. An off street drop off area is to be provided with the capability to accommodate at least two vehicles in addition to the parking normally required for the residence. A driveway may be used for this purpose.
  - c. One on-site parking space shall be provided for any assistant provider or caregiver not a resident on the premises.
  - d. All outdoor play areas shall not be located in front yards.
  - e. One sign is permitted providing:
    - i. It is for identification purposes only.
    - ii. It is not internally illuminated and does not exceed six (6) square feet.
- C. Performance Standards:
  - a. Operation and maintenance of all group day care facilities shall conform to existing applicable County and State regulations.

### **1619) Day Care Center**

- A. There shall be provided and maintained a minimum of one hundred fifty (150) square feet of open space for each child cared for.

- B. Such open space shall have a total minimum area of not less than five thousand (5,000) square feet and shall be fenced and screened from any adjoining lot in any residential district.

### **1620) Kennels, Commercial**

- A. A commercial kennel shall be on a lot with a minimum lot size of five (5) acres for the first eleven (11) animals and an additional one-third (1/3) acre for each animal thereafter.
- B. Accessory buildings where animals are kept, runs, and exercise areas shall not be located closer than five hundred (500') feet from the property line of any Residential District and/or existing residential use.
- C. All kennels shall be operated in conformance with all applicable County, State and Federal regulations.
- D. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
- E. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring landowners or residents is prohibited.
- F. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
- G. During the hours between 7:00 a.m. until 10:00 p.m., animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
- H. Runs and/or exercise areas, and buildings where the animals are maintained shall be located in the rear yard only.
- I. The kennel area shall be screened from view using a Class C Buffer as determined by Article 10 section 1013 of this ordinance.
- J. The outside perimeter of the run and/or exercise area of a commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top having to prohibit the escape of animals.
- K. All animals must be licensed and maintained in a healthful and careful manner.
- L. Indoor runs and breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning and shall be provided with an adequate septic system.
- M. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
- N. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
- O. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

### **1621) Landscaping, Home and Garden Centers**

Open air businesses shall include, but need not be limited to, commercial sales establishments selling landscaping materials, home improvement materials and tools and related accessories.

- A. Site Requirements:

- a. No loading activities shall be permitted within twenty five (25') feet of any lot line abutting a residential land use.
  - b. All ingress and egress to the site shall be directly from a hard surfaced street, or from an approved shared access drive to such thoroughfare.
  - c. No more than one (1) driveway onto a thoroughfare shall be permitted per site. Driveway approach width shall not exceed thirty five (35') feet.
- B. Buffering Requirements:
- a. Trucking, outside storage, loading and dock areas shall be fenced and screened with a Class C Buffer pursuant to the requirements of Article 10 Section 1013 of this Ordinance.
  - b. Storage yards shall be obscured from view from public streets.
- C. Performance Standards:
- a. The site shall be kept in a neat and orderly fashion.
  - b. Not more than fifty (50) percent of the parcel shall be covered by buildings.
  - c. Storage or display of goods and materials shall not occur within the setback area.
  - d. No public address system shall be audible from any abutting residential parcel.
  - e. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within building or secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
  - f. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect on adjacent properties, water bodies, wetlands and drainage-ways.
- D. All areas subject to vehicular use shall be paved with a durable dust free surface, with appropriate bumper guards where needed.

## **1622) Mini Warehouses / Self Storage Facilities**

- A. Building separation between self-storage buildings on the same site shall be a minimum of twenty-four (24') feet or equal to the building height, whichever is greater.
- B. The total lot coverage of all structures shall be limited to thirty-five (35) percent of the total lot area.
- C. The site shall be screened from view using a Class B Buffer per the requirements of Article 10 section 1013.
- D. Parking shall be provided in accordance with the following: two (2) spaces for the resident manager, one (1) additional space for each additional employee, and two (2) additional spaces for customers shall be provided adjacent to the rental office.
- E. Internal driveway aisles shall be a minimum of twenty four (24') feet in width.
- F. All off street parking areas and driveways shall be hard surfaced.
- G. All ingress and egress to the site shall be directly from a hard surfaced street.
- H. Building height shall not exceed one (1) story or fourteen (14') feet except that a caretaker or resident manager's unit may be allowed a building height of two (2) stories or twenty five (25') feet.
- I. No single storage building shall exceed seven thousand five hundred (7,500) square feet.
- J. All storage on the property, with the exception of item 11 below, shall be kept within an enclosed building.

- K. The outdoor storage of recreational vehicles, motorized homes, boats and trailers, motor vehicles, and travel trailers may be permitted. All such areas shall be on an aggregate treated surface, or better. Such storage shall be completely screened from view from all adjacent residential areas.
- L. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials are expressly prohibited.

### **1623) Motels**

- A. All ingress and egress to the site shall be directly from a hard surfaced street..
- B. The maximum lot coverage of all buildings, including accessory buildings, shall not exceed twenty five (25) percent of the area within the lot lines of land developed at any one time.
- C. The front twenty five (25') feet of the lot shall be landscaped buffer zone, unpaved, and shall not be used for off street parking.
- D. The minimum floor area of each guest unit shall be two hundred fifty (250) square feet.
- E. No guest shall establish permanent residence at the motel.

### **1624) Recreation, (Commercial Indoor)**

- A. The minimum lot size shall be one (1) acre.
- B. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- C. The proposed site shall have at least one property line abutting a major hard surfaced street, and the site shall be so planned as to provide ingress and egress directly onto or from said major street.
- D. Front, side, and rear yards shall be at least eighty (80') feet on those sides adjacent to residential districts. Front, side, and rear yards shall not be less than ten (10') feet on those sides adjacent to non-residential districts. Such required yard setback shall be landscaped in trees, shrubs, grass, and terrace areas. All such landscaping shall be maintained in a healthy condition.
- E. There shall be no parking or structures permitted in the required front, side, and rear yard setbacks, except for required entrance drives and screening walls used to obscure the use from abutting residential districts.
- F. Central loudspeakers/paging systems are prohibited.
- G. The exterior design is to be harmonious with the surrounding area.
- H. When a swimming pool is constructed under this Section the pool area shall be provided with a protective fence five (5) feet in height, and entry shall be provided by means of a controlled gate.

- I. All plans for storm sewers, sanitary sewers, water, and other utilities shall be reviewed and approved by the appropriate authority.

### **1625) Recreation (Commercial Outdoor)**

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. Minimum site area shall be three (3) acres
- C. No building or spectator seating facility shall be located within one hundred (100') feet of a lot line.
- D. Front, side and rear yards shall be at least eighty (80') feet. The first fifty (50') feet of such yards shall not be used for off street parking and shall be landscaped.
- E. Whenever parking areas are adjacent to land zoned or used for residential purposes, a Class B Buffer shall be provided along the sides of the parking area adjacent to such residential land in conformance with the requirements of Article 10 section 1013.
- F. Race tracks and drive in theaters shall be enclosed around the entire perimeter with an obscuring screen fence at least eight (8') feet in height. Fences shall be of permanent finished construction, painted or otherwise finished neatly, attractively and inconspicuously.
- G. The applicant shall provide evidence of compliance with all appropriate federal, state, county and local permits as appropriate.
- H. Facilities shall provide off street parking and passenger loading areas.
- I. Adequate stacking area shall be provided for vehicles waiting to enter the lot.
- J. Facilities which have a participant capacity greater than five hundred (500) people shall provide letters of review from the County Sheriff and Manistee County Road Commission with respect to the proposed project.
- K. Landscaped areas shall be maintained in a healthy condition pursuant to Article 10 section 1013 of this Ordinance.
- L. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- M. In no case shall a recreational accessory use pre-date the installation and operation of the principal use. When the principal use ceases to operate, the accessory use shall immediately cease.
- N. Accessory commercial activities shall be limited to those necessary to serve only the seasonal patrons of the facility.
- O. Not more than sixty-five (65) percent of the land area shall be covered by recreational uses.
- P. Central loudspeakers/paging systems are prohibited.
- Q. No temporary sanitary facility or trash receptacle shall be located within two hundred (200') feet of an existing dwelling.
- R. All sanitary facilities shall be designed and constructed in strict conformance with District #10 Health Department regulations.
- S. Adequate trash receptacles shall be provided as needed throughout the site.
- T. Operating hours for all uses shall be determined by the Commission based on the nature of the use and the nuisance potential to adjoining property owners.

## **1626) Recreational Vehicle Storage Facilities**

- A. Maximum area shall be three (3) acres unless associated with and on the same property as a permitted mini warehouse/self-storage facility.
- B. The use of the premises shall be limited only to storage of recreational vehicles, boats, and trailers and shall not be used for any auction, sales, transfer business, or storage of other materials.
- C. The premises shall not be used for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item.
- D. The premises shall not be used for the operation of power tools, compressors, kilns, or similar equipment.
- E. Limited sale of products and supplies incidental to the principal use, such as ropes, locks, tape, etc., to tenants shall be permitted within an enclosed building.
- F. The storage of combustible or flammable liquids or explosive materials shall be prohibited.
- G. No vehicle shall have a fixed connection to electricity, water, gas, or sanitary facilities, for the purpose of use as a dwelling or temporary dwelling.
- H. No person, individual, group, or family shall be allowed to occupy any vehicle during non-business hours.
- I. At least one property line shall abut an arterial street.
- J. All ingress and egress shall be directly onto an arterial street.
- K. Storage areas shall meet all yard setback requirements applicable to any building in the district.
- L. Storage areas shall be hard surfaced.
- M. Storage areas shall be screened by an obscuring wall at least six (6') feet high or a chain-link fence with intense evergreen shrub planting.
- N. All recreational vehicles, boats, and trailers contained herein shall be locked or secured at all times when not being claimed or moved by the owner so as to prevent access thereto and to prevent accidental release that would permit movement onto abutting property.
- O. Access drives, parking areas, and maneuvering lanes shall be maintained and located so as to provide access for emergency vehicles at all times.

## **1627) Restaurant, Carry Out, Fast Food, or Drive In**

- A. No drive in, fast food, or carry out restaurant property line shall be located within five hundred (500') feet from an elementary, junior, or senior high school property line.
- B. All ingress and egress shall be directly from a hard surfaced street.
- C. The minimum width of driveways at the property line shall be twenty four (24') feet, and not greater than thirty (30') feet.
- D. The minimum distance between driveways on the site shall be seventy five (75') feet measured from the two closest driveways' curbs, measured along the right of way.
- E. The minimum distance between a driveway into the site from a street intersection shall be sixty (60') feet measured from the intersection of the street right of way to the nearest end of the curb radius.

- F. Motor vehicle oriented businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.
- G. The entire parking area shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained in accordance with standards specified by Township Consultants. Any unpaved area of the site shall be landscaped with lawn or other horticultural materials, maintained in a neat and orderly fashion at all times and separated from the paved parking or driveway area by a raised curb or other equivalent barrier.
- H. Concrete curbing, six (6") inches in height, shall be properly placed and maintained along or parallel to all property lines, except where bumper guards are required and except across approved driveways, so as to prevent vehicular encroachment onto or over the public right of way and to prevent vehicular encroachment onto or over the adjoining property, or vehicular damage to the adjoining buildings.
- I. The Commission, upon application of the property owner, may modify or waive the curbing requirement where unusual site characteristics exist or in instances where landscaping or other natural or manmade features would produce the same effect.
- J. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.
- K. Drive in establishment management shall provide adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
- L. During the period when a drive in restaurant, fast food restaurant, or carry out restaurant is vacated, closed, or otherwise not opened for business for more than thirty (30) consecutive days, the owner, franchise holder, or lessee shall be subject to complying with the following regulations:
  - a. Vehicular parking and storage shall be prohibited at all times anywhere on the premises and the owner, franchise holder, or lessee shall post a sign or signs on the premises, giving notice that all parked or stored vehicles are subject to ticketing and removal by the Village at vehicle owner's expense. In addition, the owner, franchise holder, or lessee, whoever is in possession, is subject to ticketing if unlawfully parked or stored vehicles are permitted on the premises by consent of owner, franchise holder, or lessee. The Township shall have the right of entry to subject property for the purpose of accomplishing said ticketing and removal.
  - b. The ground shall be kept free of rubbish and debris, and the grass if any, shall be well kept and cut as necessary so as to present a neat and attractive appearance at all times.
  - c. Within sixty (60) days of such closing, all curb cuts across driveway entrances and all other points of ingress and egress to the premises shall be closed to vehicular traffic.

## **1628) Home Occupations**

Home occupations shall not be allowed in any zoning district except as hereinafter provided:

- A. The home occupation(s) takes place in a dwelling owned by the resident and where the resident engaging in the home occupation lives on a full time basis.
- B. The home occupation(s) shall be accessory to the residential use of the property.
- C. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation.
- D. The home occupation(s) shall be conducted entirely within the enclosed dwelling or auto garage accessory to the house with no external evidence of the activity except for a sign that shall not exceed six (6') square feet in size.
- E. The home occupation(s) shall not involve the
  - a. generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 299.433 et. seq.) or
  - b. use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910(2),

*Except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, art and craft supplies or heating fuel.*
- F. The volume of business is such that there shall not be more than two automobiles parked in the vicinity at a time for customers at the home occupation.
- G. Off-road parking shall be provided for two vehicles on the parcel of the home occupation.
- H. Hours of operation for customer service at the home occupation shall be limited to 8 am to 5 pm.
- I. The home occupation shall employ no one at the residence except those who live there.
- J. No additional rooms or accessory structures may be added to the dwelling to accommodate the home occupation, unless a variance is received, which determines (section 9603.A of this ordinance notwithstanding) the addition does not result in the home occupation becoming the primary use on the parcel.
- K. Home occupation is listed as a permitted use in the respective district.

## **1629 Wireless Communication Support Facilities (WCSF's)**

- A. Size and Setbacks
  - a. A minimum parcel size of three-fourths (0.75) acre; this minimum size requirement shall supersede all other parcel size requirements for the land use district in which the tower is located.
  - b. No part of any WCSF or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located.
  - c. WCSF's shall be located so that they do not interfere with radio, television or other reception in nearby residential areas.
  - d. WCSF's shall be located so there is room for vehicles doing maintenance to maneuver on the parcel owned or leased by the applicant.
  - e. The base of the WCSF shall occupy no more than five hundred (500) square feet.
  - f. Minimum spacing between WCSF locations shall be one (1) mile in order to prevent a concentration of WCSF's in one area.

- g. The maximum height of a WCSF shall be the minimum height demonstrated by the applicant to be necessary for reasonable communication.
  - h. Where the parcel adjoins any residentially zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter of the WCSF and related structures. In no case shall the evergreens be any closer than ten (10) feet to any structure.
  - i. The base of all WCSF's shall be set back from each lot line of the parcel a distance equal to at least the height of the WCSF.
- B. Accessory Structures
- a. Accessory structures are limited to uses associated with the operation of the WCSF and may not be located any closer to any property line than thirty (30) feet.
  - b. Accessory structures shall not exceed six hundred (600) square feet of total building area.
  - c. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a WCSF or antenna and a structure, or between WCSF's, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- C. Construction Standards
- a. The base of the WCSF and all wire cable supports shall be fenced with a minimum of six (6) foot high fence designed to prevent access to the site and the wire cable supports.
  - b. The WCSF owner shall agree to design and build the tower to provide for a minimum of four additional antennas. Subleases for this space shall be made available to the public at a rate reflecting current local industry standards.
  - c. All WCSF's shall be equipped with an anti-climbing device to prevent unauthorized access.
  - d. WCSF construction plans shall be certified by a registered professional engineer.
  - e. The applicant shall provide verification that the antenna mounts and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
  - f. All WCSF's must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
  - g. Metal WCSF's shall be constructed of, or treated with, corrosive-resistant material.
  - h. Antennas and metal WCSF's shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable statutes, regulations and standards.
  - i. WCSF's with antennas shall be designed to withstand a uniform wind loading as prescribed in all applicable building or construction codes.
  - j. WCSF's shall not be artificially lighted unless required by the Federal Aviation Administration.
  - k. Existing on-site vegetation shall be preserved to the maximum extent practical.

- l. There shall be no displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
  - m. The antenna shall be painted to match the exterior treatment of the WCSF. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
  - n. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation and the environmental effects of radio emissions. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standards or the Land Use Permit will be subject to revocation by the Planning Commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
  - o. All parking and drive areas must be paved as provided in this Ordinance.
- D. Use Standards
- a. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
  - b. The WCSF shall be removed by the property owner or lessee within six (6) months of being abandoned. For the purpose of this paragraph abandoned is defined as non-use. If the WCSF is not removed by the owner within the specified time, the Township shall have the right to remove the WCSF and assess a lien against the parcel to recover the costs associated with the removal.
- E. Miscellaneous Standards
- a. All applications for WCSF's shall be signed by the licensed operator of the communication service.
  - b. The applicant has demonstrated that it is not feasible to collocate on an existing WCSF by the payment of market rent or other market compensation to the owner of an existing WCSF, or that collocation on an existing WCSF is not technologically reasonable because of unreasonable interference or structural incapacity of an existing WCSF.

**1630) Veterinary Clinics, including small animal hospitals**

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. The minimum area shall be two (2) acres.
- C. Buildings wherein animals are kept, animal runs, and/or exercise areas shall not be located closer than five hundred (500') feet to any Residential District and/or existing residential use.

## **Article 18: General Zoning District Provisions**

### **1801) Establishment of Districts**

The Village of Kaleva is hereby divided into five (5) zoning districts and one (1) overlay district as shown on the Official Zoning Map, and as follows:

- A. Residential districts:
  - a. Residential District (R-1)
- B. Commercial districts:
  - a. Commercial District (C-1)
  - b. Downtown Business District (DBD)
- C. Industrial districts:
  - a. Industrial District (I)
- D. Recreation districts:
  - a. Recreation and Open Space (ROS)
- E. Overlay districts:
  - a. Wellhead Protection Overlay District (WPOD)

### **1802) Provision for Official Zoning Map**

For the purpose of this Ordinance the zoning districts as provided in section 1801 of this Ordinance are bounded and defined as shown on a map entitled "Official Zoning Map of Kaleva Village", a copy of which accompanies this Ordinance and which, with all explanatory matter thereon, is hereby incorporated into and made a part of this Ordinance by reference.

### **1803) Identification of Official Zoning Map**

The Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bear the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Kaleva Village", together with the effective date of this Ordinance.

### **1804) Changes to Official Zoning Map**

If, in accordance with the procedures of this Ordinance and of Public Act 110 of 2006, Michigan Zoning Enabling Act, MCL 125.3101, a change is made in a zoning district boundary, such change shall be made by, or under the direction of, the President promptly after the amendment authorizing such change shall have been adopted and published.

### **1805) Authority of Zoning Map**

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Kaleva Village Hall shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the Village. There shall be a hard copy zoning map available, as well as exact copies kept digitally within the Village Offices.

### **1806) Replacement of Official Zoning Map**

In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Village Council may by resolution authorize the transcribing and drawing of a duplicate original Official Zoning Map which shall supersede the prior Official Zoning Map, or authorize the printing of an exact copy of the existing zoning map from the digitally kept copy of the original. The duplicate Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending the Zoning Ordinance or the prior Official Zoning Map. The duplicate Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bear the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Kaleva Village duplicated on (DATE) which replaces and supersedes the Official Zoning Map which was adopted on (DATE)."

### **1807) Rules of Interpretation**

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules of interpretation shall apply:

- A. A boundary indicated as approximately following the centerline of a highway, road, alley or easement shall be construed as following such line.
- B. A boundary indicated as approximately following a recorded parcel line or a property line shall be construed as following such line.
- C. A boundary indicated as approximately following the corporate boundary line of the Village shall be construed as following such line.
- D. A boundary indicated as following a railroad line shall be construed as being the centerline of the railroad right of way or former railroad right of way.
- E. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
- F. A boundary indicated as following the centerline of a water body shall be construed as following such centerline.
- G. A boundary indicated as parallel to, or an extension of, a feature indicated in interpretations A through F above shall be so construed.
- H. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- I. Where a physical or cultural feature existing on the ground is at variance with that shown on the Official Zoning Map, or in any other circumstance not covered by subsections A through H above, or question in interpreting subsections A through H above, the Appeals Board shall interpret the zoning district boundary.

### **1808) Application of Regulations**

The regulations established by this Ordinance within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general

welfare and shall be uniform for each class of land or building, dwellings and structures throughout each district.

## **1809) Table of Land Uses**

The Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance.

### **A. Key to the Use Table**

- a. **2012 NAICS Sector and Codes Column:** This first column in the table provides the listing of NAICS codes organized by the sector in which they are contained. The codes contained in this column are listed for the uses which are allowed by right or by special use permit or disallowed in the established zoning districts. If a use is not contained within the table or contained within the lower hierarchy of a listed NAICS code then that use is not allowed within the Village.
- b. **2012 Use Title Column:** The uses displayed in the “Use Column” provide the reference use name for the NAICS code provided.
- c. **Zoning District Column:** The Zoning Districts established through this ordinance are displayed in the first row at the top of the last five columns of the table.
- d. **Permitted Uses:** A “P” indicates that a use is permitted in the respective district subject to the specific use standards in article 16. Such uses are also subject to all other applicable requirements of this Ordinance.
- e. **Special Uses:** An “S” indicates a use that may be permitted in the respective general use district only where approved by the Planning Commission in accordance with article 86 of this ordinance. Special uses are subject to all other applicable requirements of this Ordinance, including the specific use standards contained in article 16.
- f. **Uses Not Permitted:** A blank cell in the use table indicates that a use is not permitted in the respective district.
- g. **Wellhead Protection Overlay District:** Under the Wellhead Protection Overlay District column, there are reference letters of B and C. These letters correspond to uses which are not allowed within the respective wellhead protection overlay sectors established in Article 78 of this ordinance. It is important to note that both uses listed as B or C are not allowed within sector A.

### **B. Uses Not Displayed in the Table**

- a. If a use is not displayed in the use table than that use is not permitted within the Village of Kaleva.

### **C. Utilization of the Use Table**

- a. To properly utilize the Use Table provided below. Identify a use by NAICS Code or Use Name, and then move across the row to see if the use is permitted, a special use or not permitted within a respective zoning district. After determining the status of the use, reference article 10 for general standards, article 16 for specific use standards, and articles 40, 53, 59, 63 and 78 for specific standards for the established zoning districts.

### **D. Table of Land Uses**

## Table of Land Uses

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
<b>Residential Uses</b>						
	Dwelling	P				
	Duplex	P				
	Mobile Homes	S				
	Acc. Buildings/Uses	P	P	S		
	Home Occupations	P				
	Public Utility	S	P	P		
<b>Sector 11: Agriculture, Forestry, Fishing and Hunting</b>						
115112	Soil Prep., Planting and Cultivating		S			
115114	Postharvest crop activities		S			
115115	Farm Labor Contractors		S			
115116	Farm Management Services		S			
115310	Support Activities for Forestry		S			
<b>Sector 22: Utilities</b>						
221320	Sewage treatment facilities		S		S	B
<b>Sector 23: Construction</b>						
236100	Residential building construction		P			
236200	Nonresidential building construction		P			
237110	Water and Sewer Line and related structures construction		P			
237120	Oil/Gas pipeline and related construction		S		P	C
237130	Power and Communication Line and Related Structures Construction		P			
237210	Land Subdivision			P		
237900	Other heavy & civil engineering construction		P			
238100	Foundation, structure & building exterior contractors		P			
238200	Building equipment contractors		P			
238220	Plumbing, Heating, and Air-Conditioning Contractors			S		B
238290	Other Building Equipment Contractors			S		B
238300	Building finishing contractors		P			

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
238900	Other specialty trade contractors		P			
<b>Sector 31-33: Manufacturing</b>						
311100-311500	Food Manufacturing				p	B
311119	Other Animal Food Manufacturing		S			B
311800-311900	Food Manufacturing				p	B
312000 (ex. 312112, 312113)	Beverage and Tobacco Manufacturing				p	B
313000-315000	Textile and Apparel Manufacturing				P	B
316000 (ex. 316110, 316998)	Leather and Allied Products Manufacturing				P	B
316998	All Other Leather Good and Allied Product Manufacturing				S	B
321000	Wood Product Manufacturing				p	B
323000	Printing and Related Support Activities				p	B
323111	Commercial Printing (except Screen and Books)			P		B
325400	Pharmaceutical and Medicine Manufacturing				p	B
325510	Paint and Coating Manufacturing				S	B
325910	Printing Ink Manufacturing				P	B
325990	All Other Chemical Product and Preparation Manufacturing				P	B
326100 (ex. 326140, 326150)	Plastics Product Manufacturing				P	B
327100	Clay Product and Refractory Manufacturing				P	B
327200	Glass and Glass Product Manufacturing				P	B
327420	Gypsum Product Manufacturing				P	B
327900	Other Nonmetallic Mineral Product Manufacturing				S	B
332200-332800	Fabricated Metal Product Manufacturing				p	B
332900 (ex. 332992, 332993, 332994)	Other Fabricated Metal Product Manufacturing				P	B
332992-332994	Small Arms, Ammunition, Ordnance Manufacturing				S	B
333000	Machinery Manufacturing				S	B
334000	Computer and Electronic Product Manufacturing				P	B
334614	software/other prerecorded compact disc/tape/record reproduction			P		B
335100-335200	Electric Lighting and Household Appliance Manufacturing				P	B
335300-335900 (ex. 335911)	Electrical Equipment and Component Manufacturing				S	B

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
336000	Transportation Equipment Manufacturing				S	B
337000-339000	Furniture & Related Product and Misc. Manufacturing				P	B
339116	Dental Laboratories			P		B
<b>Sector 42: Wholesale Trade</b>						
420000 (ex. 423520, 424710)	Wholesale Trade		S		P	
423100	Motor vehicle & motor vehicle parts & supplies merchant wholesalers				P	
423930	Recyclable material merchant wholesalers				P	C
425120	Wholesale Trade Agents and Brokers			P		
<b>Sector 44-45: Retail Trade</b>						
441000	Motor vehicle & parts dealers		P			C
441300	Automotive parts, accessories and tire stores		P			
442000	Furniture & home furnishings stores		P	P		
443000	Electronic & appliance stores			P		
443142	Electronics Stores		P	P		
444000	Building material & Garden Equipment & supplies		P			
445000	Food & beverage stores		P	P		
445100	Grocery Stores		P	P		
445200	Specialty Food Stores		P	P		
446000	Health & Personal Care Stores		P			
446191	Food (Health) Supplement Stores			P		
447000	Gasoline stations		P			B
447110	Gasoline Stations with Convenience Stores		P	P		
448000	Clothing & clothing accessories stores		P	P		
450000	Retail trade		P	P		
452000 (ex. 452910)	General Merchandise stores		P	P		
453000(except 45393)	Miscellaneous store retailers		P	P		
<b>Sector 48-49: Transportation and Warehousing</b>						
484000	Truck transportation				P	B
487000	Scenic & sightseeing transportation		S	S		

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
488390	Other support activities for water trans.		P	P		
488410	Motor Vehicle Towing			S		C
488490	other support activities for road trans.		P		P	B
488500	Freight Trans. Arrangement		P	P		
488999	All Other support activities for trans.		P	P		
491000	Postal service			P		
493000	Warehousing and storage				P	
<b>Sector 51: Information</b>						
511140	Directory and Mailing List Publishers		P	P		
511200	Software publishers		P			
511210	Software Publishers			P		
512000 (except 51222)	Motion picture & sound recording industries		P			
512100	Motion picture & video industries			P		
512210	Record Production			P		
512220	Integrated record production/distribution					C
512230	Music Publishers			P		
512240	Sound Recording Studios			P		
512290	Other Sound Recording Industries			P		
515000	Broadcasting (except Internet)		P	P		
517000	Telecommunications		P	P		
518200	Data Processing, Hosting, and Related Services		P			
518210	Data Processing, Hosting, and Related Services			P		
519110	News Syndicates		P	P		
519120	Libraries and archives	S	P			
519130	Internet Publishing/ Broadcasting /Web Search Portals		P	P		
519190	All Other Information Services		P	P		
<b>Sector 52: Finance and Insurance</b>						
520000	Finance & Insurance			P		
522320	financial trans. Processing/Reserve Clearinghouse Activities		P	P		

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
<b>Sector 53: Real Estate and Rental and Leasing</b>						
531000	Real estate			P		
531110	Apartment building rental or leasing	S				
531311	Apartment managers offices	S				
532000	rental and leasing services		P			
532100	Automotive equipment rental/leasing			S		C
532210	Consumer Electronics and Appliances Rental			P		
532291	Home Health Equipment Rental			P		
532299	All Other Consumer Goods Rental			P		
532310	General Rental Centers			P		
532400	Commercial & industrial machinery & equipment rental & leasing			P		
532411	commercial air, rail & water trans. Equip rental/lease		P	P		
532412	Construction/mining/forestry machine/equip rental			S		
533000	Lessors of nonfinancial intangible assets (except copyrighted works)			P		
<b>Sector 54: Professional, Scientific and Technical Services</b>						
541110	Offices of lawyers	S	P	P		
541191	Title Abstract and Settlement Offices			P		
541199	All Other Legal Services		P	P		
5412(except 451213)	Accounting, bookkeeping & payroll services			P		
541200	Accounting, tax preparation, bookkeeping & payroll services	S	P			
541213	Tax Preparation Services			P		
541300	Architectural, engineering & related services		P	P		
541310	Architectural services	S				
541330	Engineering services	S				
541340	Drafting Services			P		
541350	Building Inspection Services			P		
541360	Geophysical Surveying/Mapping Services	S	S			C
541370	Surveying and Mapping (except Geophysical) Services	S		P		

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
541400	Specialized design services		P	P		
541500	Computer systems design & related services		P	P		
541600	Management, scientific & technical consulting services		P	P		
541700	Scientific research & development services		P	P		B
541800	Advertising, public relations & related services		P	P		
541910	Marketing Research and Public Opinion Polling			P		B
541921	Photography Studios, Portrait			P		B
541922	Commercial Photography			P		B
541930	Translation and Interpretation Services			P		B
541940	Veterinary Services		S			B
541990	All Other Professional, Scientific, and Tech. Services			P		B
<b>Sector 55: Management of Companies and Enterprises</b>						
551111	Offices of Bank Holding Companies			P		
551112	Offices of Other Holding Companies			P		
<b>Sector 56: Admin. &amp; Support &amp; Waste Mgmt. &amp; Remediation Services</b>						
561100	Office of administration services		P	P		
561200	Facilities support services		P	P		
561300	Employment services		P	P		
561311	Employment Placement Agencies			P		
561312	Executive Search Services			P		
561400	Business support services		P	P		
561500 (ex. 561591, 561599)	Travel arrangement/res. Services		P	P		
561591	Convention and Visitors Bureaus		P			
561599	All Other Travel Arrangement and Reservation Services		S			
561600 (except 561622)	Investigation and security services		P	P		
561622	Locksmiths			S		B
561700 (except 56173)	Services to buildings/dwellings		P			

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
561710	Exterminating and Pest Control Services		P	P		
561720	Janitorial Services		P	P		B
561740	Carpet and Upholstery Cleaning Services		P	S		C
561790	Other Services to Buildings and Dwellings		P	P		B
561900 (ex. 561990)	Other support services		P			
561990	All Other Support Services			P		
562910	Remediation Services		P			
562991	Septic Tank and Related Services		P	S		B
562998	All Other Miscellaneous Waste Management Services		P	S		B
<b>Sector 61: Educational Services</b>						
610000 (ex. 611620)	Educational services		P	P		
611110	Elementary and secondary schools	S	P	P		
611400	Business schools & computer & management training		P	P		
611500	Technical & trade schools		P	P		
611511	Cosmetology & barber schools	S	P	P		
611620	Sports and Recreation Instruction		S	S		
611710	Educational Support Services		P	P		
<b>Sector 62: Health Care and Social Assistance</b>						
620000	Health care & social assistance		P			
621000	Ambulatory health care services		P	P		
621100	Offices of physicians	S	P			
621210	Offices of dentists	S	P			
621310	Offices of chiropractors	S	P			
621320	Offices of optometrists	S	P			
621330	offices of mental health practitioners (ex. Physicians)	S	P			
621340	offices of physical/occupational/speech therapists	S	P			
621391	Offices of podiatrists	S	P			
621399	offices of all other misc. health practitioners	S	P			

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
621491	HMO medical centers	S	P			
621493	Freestanding ambulatory surgical & emergency center	S	P			
623110	Nursing Care Facilities (Skilled Nursing Facilities)	S		P		
623210	Residential Intellectual/ Developmental Disability Facilities	S		P		
623311	Continuing Care Retirement Communities	S		P		
624000(except 6244)	Social assistance			P		
<b>Sector 71: Arts, Entertainment and Recreation</b>						
711000 (ex. 711110, 711212, 711320, 711410, 711510)	Performing arts, spectator sports & related industries		S	S		
711110	Theater Companies and Dinner Theaters			P		
711320	Promoters of Performing arts/sports/ similar events w/o facility			P		
711410	agents/managers for artists/athletes/entertainers/public figures			P		
711510	Independent Artists, Writers, and Performers			P		
712100 (ex. 712190)	Museums, historical sites & similar institutions	S	P	P		
712190	Nature Parks and Other Similar Institutions	P	S	S		
713000 (except 713930)	Amusement, gambling & recreation industries		S	S		
<b>Sector 72: Accommodation and Food Services</b>						
721100 (ex. 721120)	Traveler accommodation		S	S		
721200	RV Parks & Recreational camps	S	S			
721310	Rooming & boarding houses	S				
722310	Food Service Contractors			P		
722320	Caterers			P		
722400	Drinking places (alcoholic beverages)		S	P		
722500	Restaurants & other eating places		P	P		
<b>Sector 81: Other Services (except Public Admin.)</b>						
810000 (except 81291 & 813211)	Other services (except public administration)		P			
811100	Automotive repair & maintenance		P	S		C

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
811200	Electronic & precision equipment repair & maintenance		P	S		B
811212	Computer and Office Machine Repair and Maintenance		P	P		
811300	comm./ind. machinery/equip. (except auto/electric) repair/maintenance		P	S		B
811400	personal & household goods repair & maintenance		P	S		B & C
811490	other personal & household goods repair & maintenance		P	S		C
812100	Personal care services		P	P		
812111	Barber shops	S	P			
812112	Beauty salons	S	P			
812113	Nail salons	S	P			
812200	Death care services	S	P			
812300	dry-cleaning & laundry services		P	S		C
812320	Dry-cleaning and Laundry Services (except Coin-Operated)		P	P		
812910	Pet Care (except veterinary) Services		S			
812921	Photofinishing Laboratories (except One-Hour)		P	P		B
812922	One-Hour Photofinishing		P	P		B
812930	Parking Lots and Garages		P	S		C
812990	All Other Personal Services		P	P		
813000(except 8132 & 813311)	Arrangement/Reservation Services		P	P		
813110	Religious Organizations	S	P	P		
813212	Voluntary Health Organizations		P	P		
813219	Other Grant making and Giving Services		P	P		
813300	Social advocacy organizations		P	P		
<b>Sector 92: Public Admin.</b>						
921100 (except 921150)	Executive, legislative & other general government support		P	P		
922000 (except 922150)	Justice, public order & safety activities		P	P		
923000	Administration of human resource programs		P	P		
924000	Administration of environmental quality programs		P	P		
925000	Admin. of housing programs, urban planning & community development		P	P		

2012 NAICS Sector and Code	2012 NAICS Use Title	R-1	C-1	DBD	I	WPOD
926000	Administration of economic programs		P	P		
927000	Space research and technology		P	P		
928000	National security & international affairs		P	P		

## Article 30: Recreation and Open Space District (ROS)

### 3001) Purpose

It is the intent of this district to provide for lands to be utilized through public ownership for recreation, open space or less intensive civic uses. The protection of natural features, establishment of interconnected recreation space or the siting of civic uses (libraries, schools or similar public institutions) should be a priority in these areas. Purchase of lands by the Village for the purpose of recreation or open space should be rezoned to this district.

### 4002) Permitted Uses

- A. Recreational uses, such as passive and active park spaces.
- B. Open space for protection of natural features or lands.
- C. Libraries, schools and similar civic institutions.

### 4003) Special Uses

All uses outside of those permitted in section 4002 are not allowed.

### 4004) Regulations and Standards

The following regulations shall apply to all Permitted Uses in this District:

#### A. Quick Reference Table of Recreation and Open Space, ROS District Requirements

Civic Use	Lot		Max. Height	Building Floor Area Min.	Bulk		Setbacks			
	Min. Parcel Area	Min. Parcel Width			Max. Lot Building Coverage Allowance	Max. Lot Impervious Coverage Allowance	Front & Road Yard	Side	Rear	Water Yard
Library, School or other similar Civic Use	20,000 ft <sup>2</sup>	125 ft	35 ft	400 ft <sup>2</sup>	35%	50%	35 ft or 68 ft (see text)	10 ft	25 ft	100 ft
Recreation Space or Open Space Use	N/A	N/A	N/A	N/A	25%	80%	35 ft	10 ft	25 ft	100 ft

#### B. Minimum Parcel Area

- a. No building or structure for civic use shall be established on any parcel less than twenty thousand (20,000 ft<sup>2</sup>) square feet. Park and Open Space uses shall not have a minimum parcel area. The measured parcel area, as used here, shall not include:
  - i. Wetlands,
  - ii. Portions of the floodway and 100-year floodplain

#### C. Minimum Parcel Width

- a. Parcel width shall be no less than one-hundred twenty-five (125') feet and it shall front on a public road.

- D. Maximum Structure Height
  - a. No building or structure shall be taller than thirty-five (35') feet in height measured from top of roof line.
- E. Minimum Setback Requirements:
  - a. The following requirements shall apply to every parcel, building, structure or use:
    - i. Front Yard - The minimum front setback shall not be less than thirty-five (35') feet from the front property line, or sixty-eight (68') feet from the centerline of the road, whichever is greater.
    - ii. Side Yards - The minimum setback of either side yard shall not be less than ten (10') feet;
    - iii. Rear Yard - The minimum rear setback shall not be less than twenty five (25') feet.
    - iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.
- F. Buffer Requirements:
  - a. The parcel owner of any proposed civic use shall establish a buffer in conformance with the district boundary buffer standards established in section 1013.
- G. Bulk Building Requirements
  - a. Bulk building requirements shall meet the provisions established in section 1006 and section 1009.
  - b. No dwelling shall be constructed in this District which contains less than four-hundred (400 ft<sup>2</sup>) square feet of floor area.
  - c. No dwelling or accessory building or combination of all structures permitted on a lot shall provide greater than thirty-five (35%) percent lot coverage, or twenty-five (25%) percent lot coverage in the case of recreation and open space uses.
  - d. The total allowance for impervious surfaces for an individual lot shall not exceed fifty (50%) percent, or eighty (80%) percent in the case of recreational and open space uses.
- H. Accessory Buildings
  - a. No accessory building shall be constructed in this District which contains more than sixteen hundred (1,600 ft<sup>2</sup>) square feet of building area and is not more than eighteen (18') feet tall.
  - b. This provision may be waived by the Planning Commission if the structure is utilized for public recreational use storage.
- I. Utility Easement Preservation
  - a. All lots are subject to a ten (10') foot utility easement. The easement is measured perpendicular to the property line, ten (10') feet on each side and running parallel to the property line
  - b. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.

## Article 40: Residential District (R-1)

### 4001) Purpose

It is the intent of this district to provide for single-family and two-family dwellings by right and the placement of apartments and multi-family dwellings through a special use process approval. This district is to guide development of new neighborhoods for residential use as designated by the Zoning Map of Kaleva Village, to promote a compatible arrangement of land uses for homes, to keep neighborhoods relatively quiet and free from detrimental uses.

### 4002) Permitted Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4003) Special Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4004) Regulations and Standards

The following regulations shall apply to all Permitted Uses and Special Uses in this District:

#### A. Quick Reference Table of Residential, R-1 District Requirements

Residential Use	Lot		Max. Height	Bulk			Setbacks			
	Min. Parcel Area	Min. Parcel Width		Building Floor Area Min.	Max. Lot Building Coverage Allowance	Max. Lot Impervious Coverage Allowance	Front & Road Yard	Side	Rear	Water Yard
Single & Two-Family Dwellings	20,000 ft <sup>2</sup>	125 ft	35 ft	400 ft <sup>2</sup>	35%	50%	35 ft or 68 ft (see text)	10 ft	25 ft	100 ft
Multi-family Dwellings	≥ 20k ft <sup>2</sup> or 10k ft <sup>2</sup> per unit	125 ft	35 ft	400 ft <sup>2</sup>	35%	50%	35 ft or 68 ft (see text)	10 ft	25 ft	100 ft

#### B. Minimum Parcel Area

- a. No building, structure or use shall be established on any parcel less than twenty thousand (20,000 ft<sup>2</sup>) square feet. No apartment building shall be established on any parcel less than ten thousand (10,000 ft<sup>2</sup>) square feet per each housing unit, which ever parcel is greater. The measured parcel area, as used here, shall not include:
  - i. Wetlands,
  - ii. Portions of the floodway and 100-year floodplain

#### C. Minimum Parcel Width

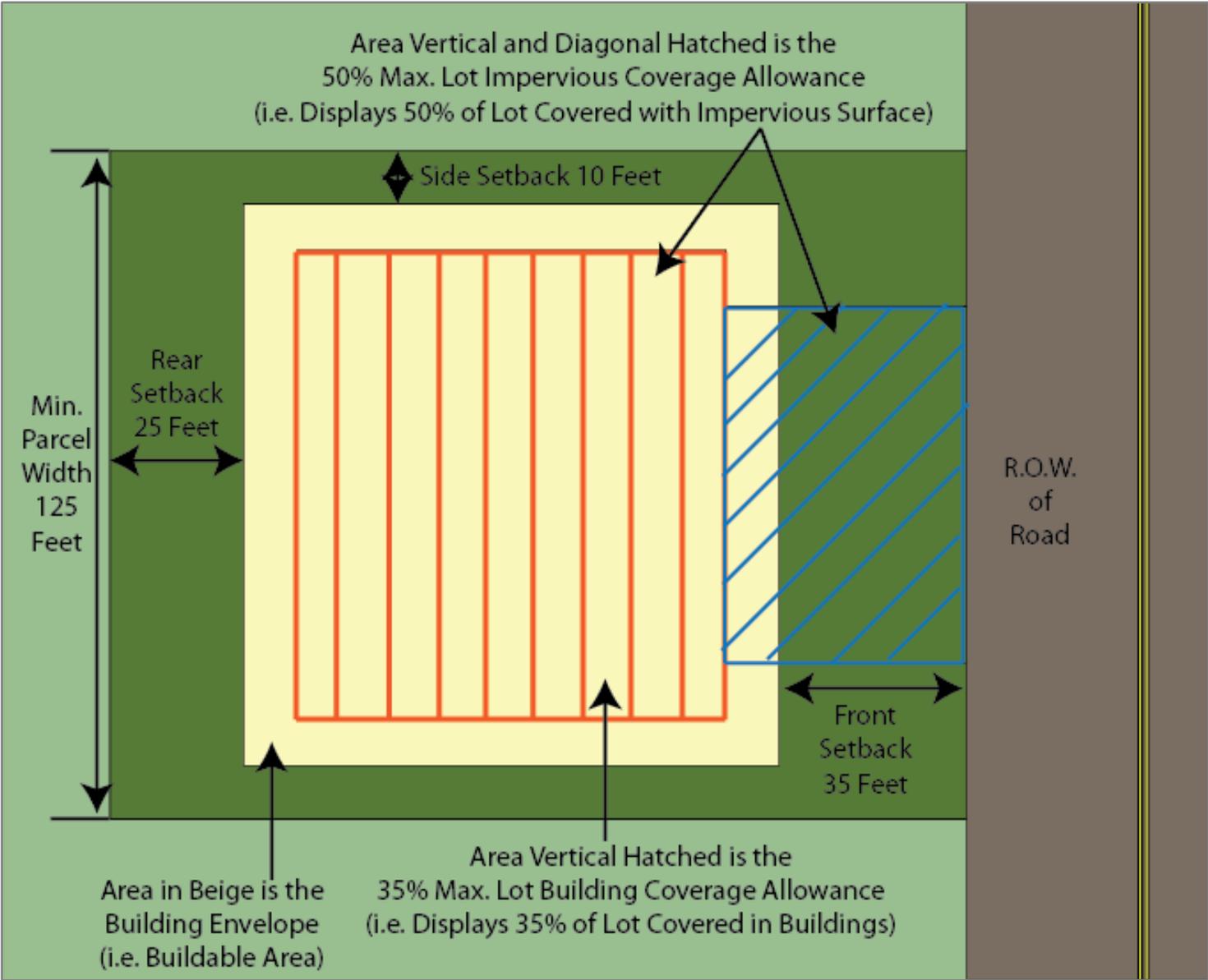
- a. Parcel width shall be no less than one-hundred twenty-five (125') feet and it shall front on a public road.

#### D. Maximum Structure Height

- a. No building or structure shall be taller than thirty-five (35') feet in height measured from top of roof line.
- E. Minimum Setback Requirements:
  - a. The following requirements shall apply to every parcel, building, structure or use:
    - i. Front Yard - The minimum front setback shall not be less than thirty-five (35') feet from the front property line, or sixty-eight (68') feet from the centerline of the road, whichever is greater.
    - ii. Side Yards - The minimum setback of either side yard shall not be less than ten (10') feet;
    - iii. Rear Yard - The minimum rear setback shall not be less than twenty five (25') feet.
    - iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.
- F. Buffer Requirements:
  - a. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in section 1013.
- G. Bulk Building Requirements
  - a. Bulk building requirements shall meet the provisions established in section 1006 and section 1009.
  - b. No dwelling shall be constructed in this District which contains less than four-hundred (400 ft<sup>2</sup>) square feet of floor area.
  - c. No dwelling or accessory building or combination of all structures permitted on a lot shall provide greater than thirty-five (35%) percent lot coverage.
  - d. The total allowance for impervious surfaces for an individual lot shall not exceed fifty (50%) percent
- H. Accessory Buildings
  - a. No accessory building shall be constructed in this District which contains more than sixteen hundred (1,600 ft<sup>2</sup>) square feet of building area and is not more than eighteen (18') feet tall, or not taller than the dwelling (principal structure), whichever is less.
- I. Utility Easement Preservation
  - a. All lots are subject to a ten (10') foot utility easement. The easement is measured perpendicular to the property line, ten (10') feet on each side and running parallel to the property line
  - b. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.
- J. Image of District Requirements
  - a. See the image on the following page for a visual representation of individual lot requirements.
  - b. The ordinance text shall take precedence over the image provided.
  - c. Area displayed with vertical hatching only displays the percentage of building coverage allowed within the building envelope. The building(s) may be placed anywhere within the building envelope.
  - d. Area displayed with diagonal hatching only displays the percentage of impervious coverage allowed on the lot in addition to the building coverage. The impervious

surface allowance is allowed anywhere within the boundaries of the lot in accordance with the provisions of this ordinance.

### Image of R-1 District Requirements



## Article 53: Commercial District (C-1)

### 4001) Purpose

It is the intent of this district to provide for Commercial uses and activity along the Nine Mile Road corridor in Kaleva Village, as displayed on the Village of Kaleva’s Zoning Map.

### 4002) Permitted Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4003) Special Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4004) Regulations and Standards

The following regulations shall apply to all Permitted Uses and Special Uses in this District:

#### A. Quick Reference Table of Commercial, C-1 District Requirements

Commercial Use	Lot		Max. Height	Bulk			Setbacks			
	Min. Parcel Area	Min. Parcel Width		Building Floor Area Min.	Max. Lot Building Coverage Allowance	Max. Lot Impervious Coverage Allowance	Front & Road Yard	Side	Rear	Water Yard
C-1	20,000 ft <sup>2</sup>	100 ft	35 ft	400 ft <sup>2</sup>	35%	50%	50 ft or 83 ft (see text)	20 ft	20 ft	100 ft

#### B. Minimum Parcel Area

- a. No building, structure or use shall be established on any parcel less than twenty thousand (20,000 ft<sup>2</sup>) square feet. The measured parcel area, as used here, shall not include:
  - i. Wetlands,
  - ii. Portions of the floodway and 100-year floodplain

#### C. Minimum Parcel Width

- a. Parcel width shall be no less than one-hundred (100’) feet and it shall front on a public road.

#### D. Maximum Structure Height

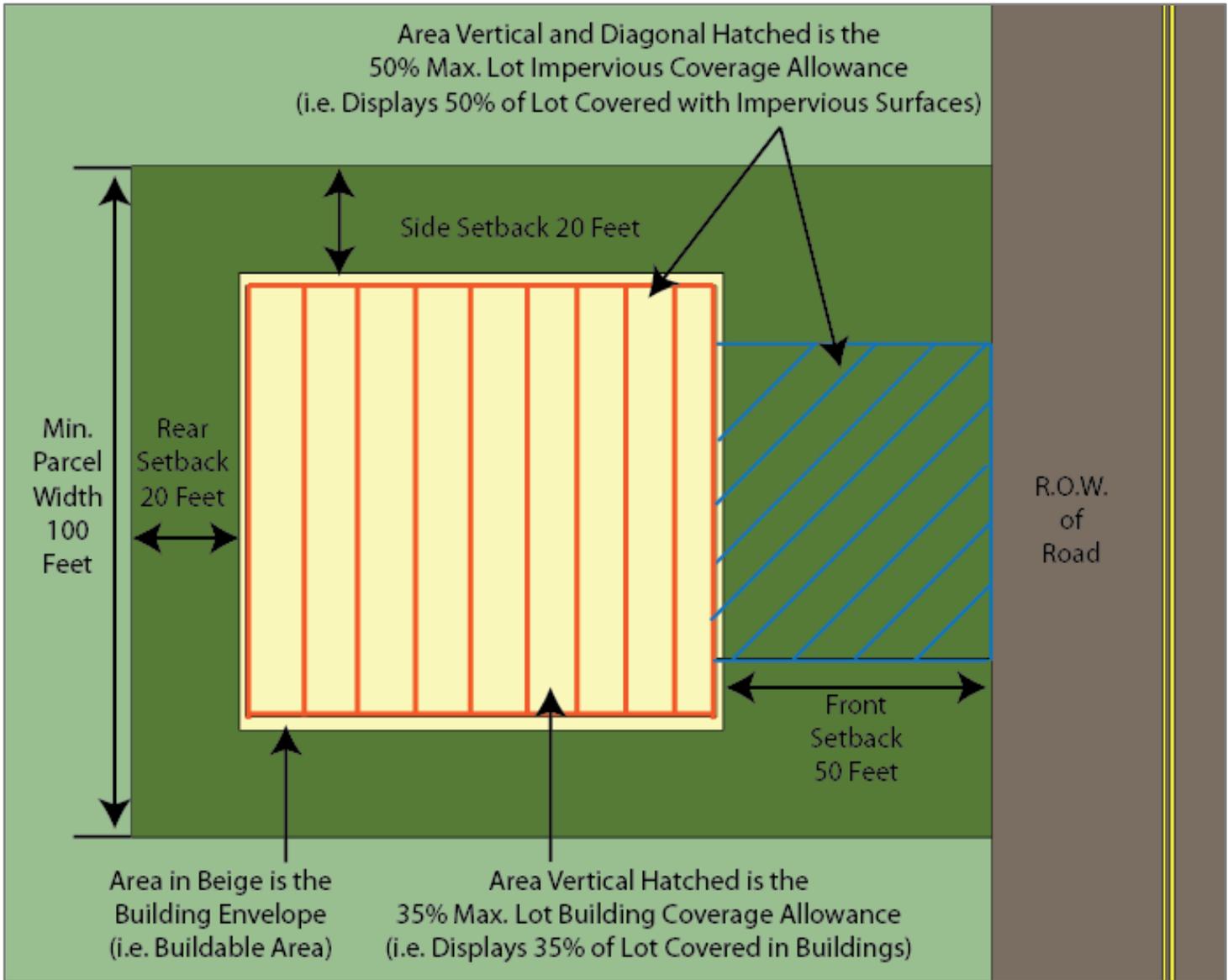
- a. No building or structure shall be taller than thirty-five (35’) feet in height measured from top of roof line.

#### E. Minimum Setback Requirements:

- a. The following requirements shall apply to every parcel, building, structure or use:
  - i. Front Yard - The minimum front setback shall not be less than fifty (50’) feet from the front property line, or eighty-three (83’) feet from the centerline of the road, whichever is greater.
  - ii. Side Yards - The minimum setback of either side yard shall not be less than twenty (20’) feet;

- iii. Rear Yard - The minimum rear setback shall not be less than twenty (20') feet.
    - iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.
- F. Buffer Requirements:
  - a. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in section 1013.
- G. Bulk Building Requirements
  - a. Bulk building requirements shall meet the provisions established in section 1006 and section 1009.
  - b. No structure or accessory building or combination of all structures permitted on a lot shall provide greater than thirty-five (35%) percent lot coverage.
  - c. The total allowance for impervious surfaces for an individual lot shall not exceed fifty (50%) percent
- H. Accessory Buildings
  - a. No accessory building shall be constructed in this District that is not more than twenty-five (25') feet tall, or not taller than the principal structure, whichever is less.
- I. Utility Easement Preservation
  - a. All lots are subject to a ten (10') foot utility easement. The easement is measured perpendicular to the property line, ten (10') feet on each side and running parallel to the property line
  - b. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.
- J. Image of District Requirements
  - a. See the image on the following page for a visual representation of individual lot requirements.
  - b. The ordinance text shall take precedence over the image provided.
  - c. Area displayed with vertical hatching only displays the percentage of building coverage allowed within the building envelope. The building(s) may be placed anywhere within the building envelope.
  - d. Area displayed with diagonal hatching only displays the percentage of impervious coverage allowed on the lot in addition to the building coverage. The impervious surface allowance is allowed anywhere within the boundaries of the lot in accordance with the provisions of this ordinance.

# Image of C-1 District Requirements



## Article 59: Downtown Business District (DBD)

### 4001) Purpose

It is the intent of this district to provide for a central downtown business district in the Village of Kaleva that contains a mix of commercial uses. The district location is to be established as displayed on the Village of Kaleva’s Zoning Map.

### 4002) Permitted Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4003) Special Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4004) Regulations and Standards

The following regulations shall apply to all Permitted Uses and Special Uses in this District:

#### A. Quick Reference Table of Downtown Business, DBD District Requirements

Commercial Use	Lot			Bulk			Setbacks			
	Min. Parcel Area	Min. Parcel Width	Max. Height	Building Floor Area Min.	Max. Lot Building Coverage Allowance	Max. Lot Impervious Coverage Allowance	Front & Road Yard	Side	Rear	Water Yard
DBD	15,000 ft <sup>2</sup>	100 ft	35 ft	400 ft <sup>2</sup>	50%	80%	12 ft or 45 ft (see text)	10 ft	12 ft	100 ft

#### B. Minimum Parcel Area

- a. No building, structure or use shall be established on any parcel less than fifteen thousand (15,000 ft<sup>2</sup>) square feet. The measured parcel area, as used here, shall not include:
  - i. Wetlands,
  - ii. Portions of the floodway and 100-year floodplain

#### C. Minimum Parcel Width

- a. Parcel width shall be no less than one-hundred (100’) feet and it shall front on a public road.

#### D. Maximum Structure Height

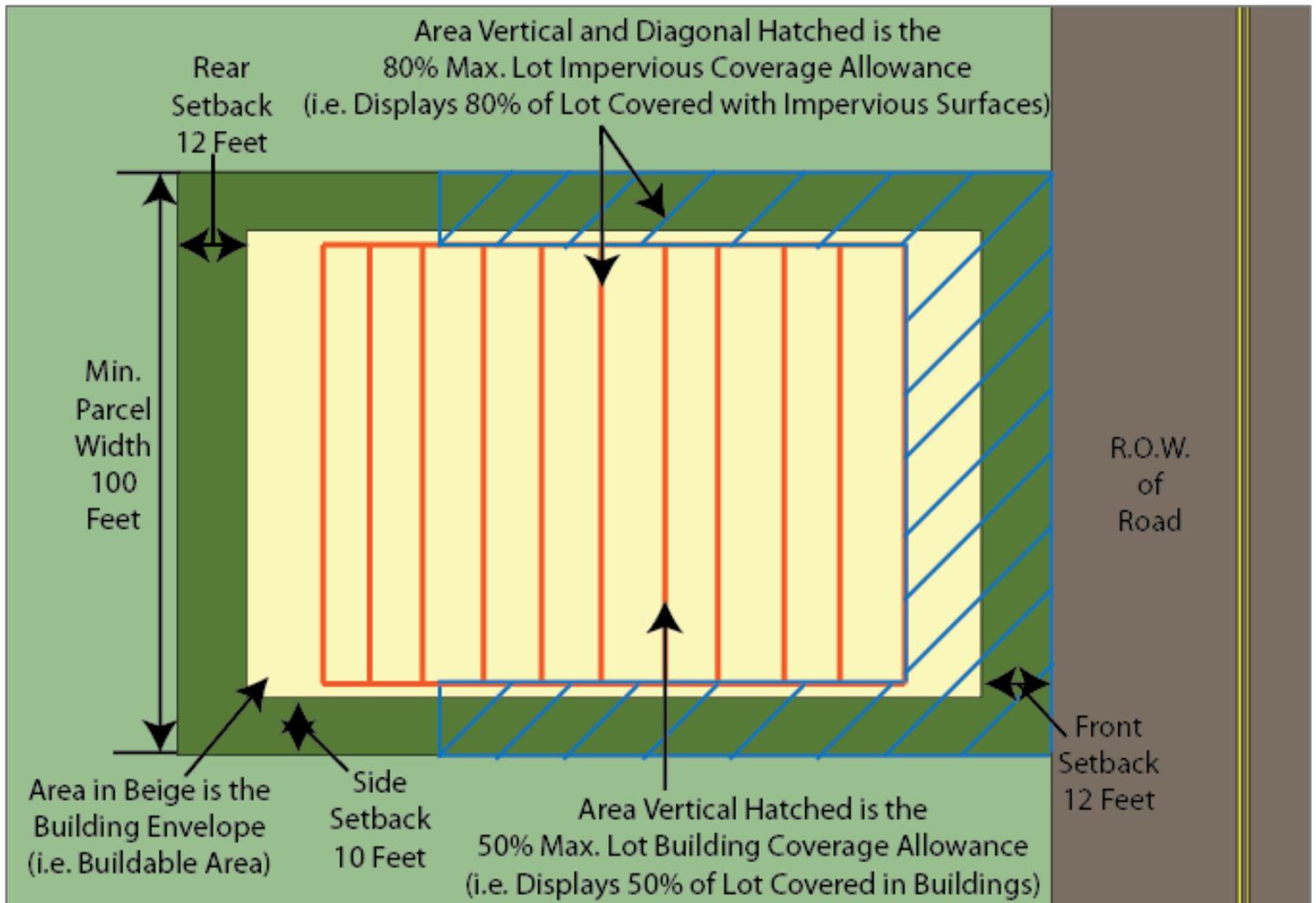
- a. No building or structure shall be taller than thirty-five (35’) feet in height measured from top of roof line.

#### E. Minimum Setback Requirements:

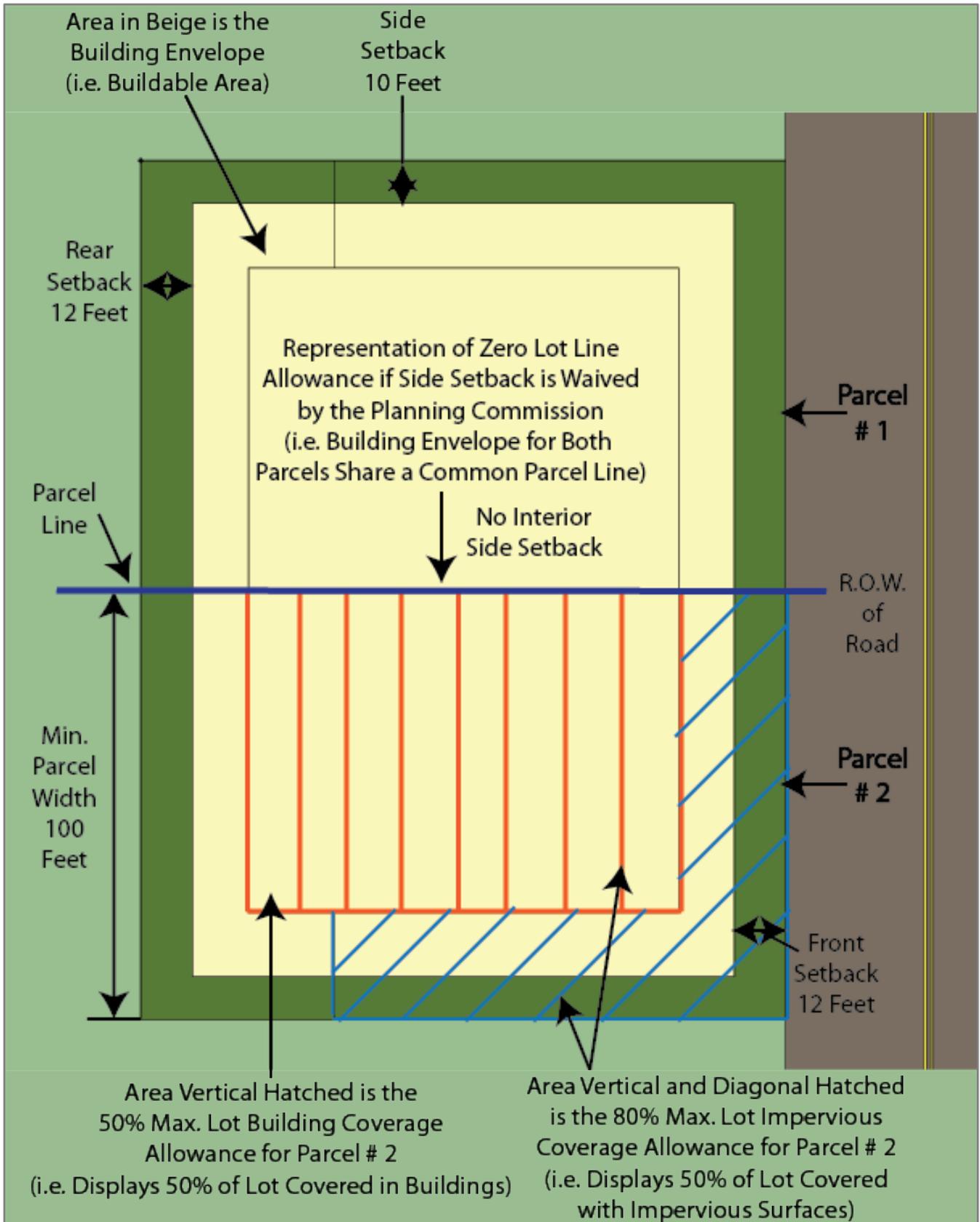
- a. The following requirements shall apply to every parcel, building, structure or use:
  - i. Front Yard - The minimum front setback shall not be less than twelve (12’) feet from the front property line, or forty-five (45’) feet from the centerline of the road, whichever is greater.

- ii. Side Yards - The minimum setback of either side yard shall not be less than ten (10') feet, the Planning Commission may waive this setback in lieu of zero lot lines for historic adjoining wall downtown design.
  - iii. Rear Yard - The minimum rear setback shall not be less than twelve (12') feet.
  - iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.
- F. Buffer Requirements:
  - a. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in section 1013.
- G. Bulk Building Requirements
  - a. Bulk building requirements shall meet the provisions established in section 1006 and section 1009.
  - b. No structure or accessory building or combination of all structures permitted on a lot shall provide greater than fifty (50%) percent lot coverage.
  - c. The total allowance for impervious surfaces for an individual lot shall not exceed eighty (80%) percent
- H. Accessory Buildings
  - a. No accessory building shall be constructed in this District that is greater than sixteen-hundred (1,600 ft<sup>2</sup>) square feet and is not more than twenty-five (25') feet tall, or not taller than the principal structure, whichever is less.
- I. Utility Easement Preservation
  - a. All lots are subject to a ten (10') foot utility easement. The easement is measured perpendicular to the property line, ten (10') feet on each side and running parallel to the property line
  - b. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.
- J. Image of District Requirements
  - a. See the images on the following pages for a visual representation of individual lot requirements for both standard setbacks and the zero lot line allowance.
  - b. The ordinance text shall take precedence over the image provided.
  - c. Area displayed with vertical hatching only displays the percentage of building coverage allowed within the building envelope. The building(s) may be placed anywhere within the building envelope.
  - d. Area displayed with diagonal hatching only displays the percentage of impervious coverage allowed on the lot in addition to the building coverage. The impervious surface allowance is allowed anywhere within the boundaries of the lot in accordance with the provisions of this ordinance.

## Image of DBD District Requirements (Standard)



# Image of DBD District Requirements (Zero Lot Line Allowance)



## Article 63: Industrial District (I)

### 4001) Purpose

It is the intent of this district to provide for an industrial district in the Village of Kaleva, including an industrial park with access to utilities. The district location is to be established as displayed on the Village of Kaleva’s Zoning Map.

### 4002) Permitted Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4003) Special Uses

Please refer to the Table of Land Uses, Article 18 section 1809.

### 4004) Regulations and Standards

The following regulations shall apply to all Permitted Uses and Special Uses in this District:

#### A. Quick Reference Table of Industrial, I District Requirements

Industrial Use	Lot		Max. Height	Bulk			Setbacks			
	Min. Parcel Area	Min. Parcel Width		Building Floor Area Min.	Max. Lot Building Coverage Allowance	Max. Lot Impervious Coverage Allowance	Front & Road Yard	Side	Rear	Water Yard
I	43,560 ft <sup>2</sup>	120 ft	35 ft	400 ft <sup>2</sup>	35%	50%	25 ft or 58 ft (see text)	20 ft	20 ft	100 ft

#### B. Minimum Parcel Area

- a. No building, structure or use shall be established on any parcel less than forty-five thousand five-hundred sixty (43,560 ft<sup>2</sup>) square feet. The measured parcel area, as used here, shall not include:
  - i. Wetlands,
  - ii. Portions of the floodway and 100-year floodplain

#### C. Minimum Parcel Width

- a. Parcel width shall be no less than one-hundred twenty (120’) feet and it shall front on a public road.

#### D. Maximum Structure Height

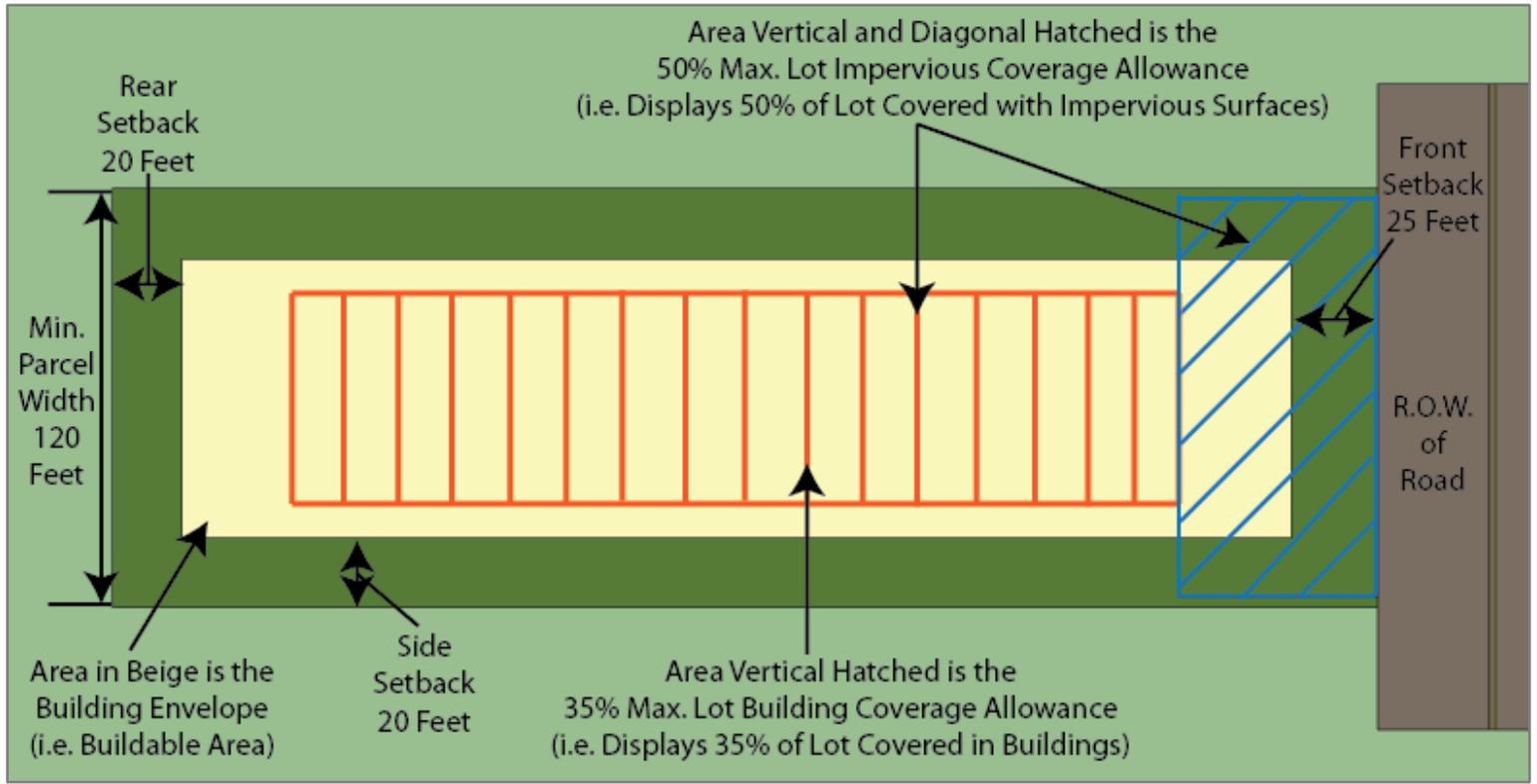
- a. No building or structure shall be taller than thirty-five (35’) feet in height measured from top of roof line.

#### E. Minimum Setback Requirements:

- a. The following requirements shall apply to every parcel, building, structure or use:
  - i. Front Yard - The minimum front setback shall not be less than twenty-five (25’) feet from the front property line, or fifty-eight (58’) feet from the centerline of the road, whichever is greater.

- ii. Side Yards - The minimum setback of either side yard shall not be less than twenty (20') feet.
  - iii. Rear Yard - The minimum rear setback shall not be less than twenty (20') feet.
  - iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.
- F. Buffer Requirements:
  - a. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in section 1013.
- G. Bulk Building Requirements
  - a. Bulk building requirements shall meet the provisions established in section 1006 and section 1009.
  - b. No structure or accessory building or combination of all structures permitted on a lot shall provide greater than fifty (35%) percent lot coverage.
  - c. The total allowance for impervious surfaces for an individual lot shall not exceed eighty (50%) percent
- H. Accessory Buildings
  - a. No accessory building shall be constructed in this District that is more than twenty-five (25') feet tall, or not taller than the principal structure, whichever is less.
- I. Utility Easement Preservation
  - a. All lots are subject to a ten (10') foot utility easement. The easement is measured perpendicular to the property line, ten (10') feet on each side and running parallel to the property line
  - b. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.
- J. Image of District Requirements
  - a. See the image on the following page for a visual representation of individual lot requirements.
  - b. The ordinance text shall take precedence over the image provided.
  - c. Area displayed with vertical hatching only displays the percentage of building coverage allowed within the building envelope. The building(s) may be placed anywhere within the building envelope.
  - d. Area displayed with diagonal hatching only displays the percentage of impervious coverage allowed on the lot in addition to the building coverage. The impervious surface allowance is allowed anywhere within the boundaries of the lot in accordance with the provisions of this ordinance.

## Image of I District Requirements



## **Article 76: Wellhead Protection Overlay District**

### **7601) Area Affected**

Every parcel of land which lies in whole or in part within Wellhead Protection Overlay Zone as depicted on the Official Zoning Map around public Type I water wells is subject to the regulations of this Overlay Zone to the extent the parcel lies within this Overlay Zone. The regulations of this Overlay Zone are in addition to any regulations in the underlying Land Use Districts, however these regulations supercede all conflicting regulations of the underlying Land Use District to the extent of such conflict but no further.

### **7602) Wellhead Protection Zones**

As shown on the Official Zoning Map, there shall be three concentric sectors within this Overlay Zone:

- A. Sector A shall be an area around the water well intended to be protected by this Overlay Zone which shall include a 200 foot diameter circle around the well.
- B. Sector B shall be the next largest area around the water well, as shown on the Official Zoning Map, intended generally to include, at a minimum, an area necessary for a one year zone of protection for the well.
- C. Sector C shall be the remainder of this Overlay Zone outside of Sectors A and B, as shown on the Official Zoning Map, intended generally to include, at a minimum, a ten year zone of protection for the well.

### **7603) Sector A Land Use Prohibitions**

The underlying zoning district notwithstanding, no person shall use land within sector A for any land use which involves any of the following:

- A. Any use displayed in the Table of Land Uses, section 1809 that is categorized with a B or C in the Wellhead protection Overlay District Column.
- B. Any other land use except:
  - a. A water well pump station.
  - b. A water tower.
  - c. Open space area, planted to grass, garden, or other ground cover.
  - d. A park which is planted to grass and does not include any motorized rides, entertainment, and so on.

### **7604) Sector B Land Use Restrictions**

The underlying zoning district notwithstanding, no person shall use land within sector A or B for any land use except as provided for here. The list of permitted and special uses allowed in the land use district underlying this overlay district shall remain unchanged in Sector B of this overlay district, except as follows. All uses listed in section 1809 of this Ordinance that is categorized with a B or C in the Wellhead Protection Overlay District column shall be prohibited uses or special uses, notwithstanding the provisions of the underlying zoning district.

- A. The uses listed in section 1809 of this Ordinance that are categorized with a B or C in the Wellhead Protection Overlay District column shall be prohibited except when one of the two following conditions exist:
  - a. The use is a facility (except fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor) which use or generates hazardous substances:
    - i. in quantities less than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or
    - ii. stores less than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less,

or

- b. The business and facilities use, store or generate hazardous substances
  - i. above the amounts established in section 7604.A.a. and
  - ii. has an approved permit by a county, state or federal agency with authority to issue such permit for the use of the hazardous substances.
- B. If the proposed uses listed in section 1809 of this Ordinance, Wellhead Protection Overlay Zone Uses are not prohibited pursuant to section 7604.A of this Ordinance, then it shall be considered a special use pursuant to Article 86 of this Ordinance.
- C. Affected Land Uses:
  - a. Any use labeled with a B or C in section 1809 of this ordinance, Table of Land Uses under the Wellhead Protection Overlay Column.
  - b. Dwellings, Duplexes, Apartment buildings which are connected to on-site sewage disposal and include more than one (1) living unit per Twenty Thousand 20,000 square feet of land area.

### **7605) Sector C Land Use Prohibitions**

The underlying zoning district notwithstanding, no person shall use land within sector A, B or C for any land use except as provided for here. The list of permitted and special uses allowed in the land use district underlying this overlay district shall remain unchanged in Sector C of this overlay district, except as follows. All uses listed in section 1809 of this Ordinance that is categorized with a C in the Wellhead Protection Overlay District column shall be prohibited uses or special uses, notwithstanding the provisions of the underlying zoning district.

- A. The uses listed in section 1809 of this Ordinance that is categorized with a C in the Wellhead Protection Overlay District column shall be prohibited except when one of the two following conditions exists:
  - a. The use is a facility (except fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor) which use or generates hazardous substances:
    - i. in quantities less than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or

- ii. stores less than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less,

or

- b. The business and facilities use, store or generate hazardous substances:
  - i. above the amounts established in section 7605.A.a, and
  - ii. has an approved permit by a county, state or federal agency with authority to issue such permit for the use of the hazardous substances.
- D. If the proposed uses listed in section 1809 of this Ordinance, Wellhead Protection Overlay Zone Uses are not prohibited pursuant to section 7605.A of this Ordinance, then it shall be considered a special use pursuant to Article 86 of this Ordinance.
- E. Affected Land Uses:
  - a. Any use labeled with a C in section 1809 of this ordinance, Table of Land Uses under the Wellhead Protection Overlay Column.

### **7606) Conflicting Federal or State Regulations**

The regulations of this Overlay Zone are not intended to conflict with any law or administrative regulation, on groundwater protection, of the United States, the State of Michigan or any agencies thereof.

### **7607) Nonconforming Land Uses in this Overlay Zone**

If a land use exists within this Overlay Zone on the date this section takes effect which is not permitted within the respective sector of this Overlay Zone then;

- A. Such nonconforming use of land shall not be moved in whole or in part to any other portion of such land, added to, extended, reconstructed, structurally altered or expanded during its life, section 8009 notwithstanding.
- B. Nothing herein shall prevent the completion of structures for a land use which shall have been diligently prosecuted prior to the passage of this section.
- C. Nothing herein shall prevent the normal repair, reinforcement, rehabilitation of a structure.

## **Article 78: Planned Unit Development (PUD)**

### **7801) Intent**

The Article provides enabling authority and standards for the submission, review, and approval of applications for Planned Unit Development (PUD). The intent of this Article is to encourage and allow a variety of uses to be located within one development which would not be allowed under traditional zoning regulations whose purpose is to separate differing uses by districts. A PUD is not intended for single use residential developments (except in the case of mobile home parks), but for projects with a mix of dwelling unit types, residential and non-residential uses, or larger non-residential uses which are otherwise not specifically authorized by this Ordinance within the zoning district.

A PUD is intended to allow substantial flexibility in planning and designing a project. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and ultimately a development that is more desirable to live in than one produced in accordance with typical zoning ordinance subdivision controls.

Through proper planning and design, each Planned Unit Development should include features which further, and are in compliance with, the following objectives:

- A. To allow a mix of uses, structures, facilities, housing types and open space in a manner compatible with existing and planned uses on nearby properties.
- B. To allow for the design of developments that achieves better utilization of land than is possible through strict application of standard zoning and subdivision controls.
- C. To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic conditions, and does not adversely affect wetlands, flood plains, the natural drainage pattern and other natural site features.
- D. To promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources.
- E. To promote further creativity in design and construction techniques.
- F. To provide for the regulation of legal land uses not otherwise authorized within the zoning district by the ordinance.
- G. To provide for single non-residential, mobile home parks or mixed use developments which comply with the goals and objectives of the Village of Kaleva Master Plan.

### **7802) Authorization & Procedures**

Except for those lands recommended for Industrial (I) use in the Village Master Plan, a Planned Unit Development may be approved by the Planning Commission as an overlay special land use in any location within the Village of Kaleva in accordance with the regulations and standards of this Article and Article 79 of this ordinance.

### **7803) Qualifying Conditions**

- A. Minimum Parcel Size: In order to be eligible for PUD approval, the property shall consist of a minimum of four (4) contiguous acres.

- B. **Unified Control:** The proposed development shall be under unified ownership or control, so that one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.

#### **7804) Allowable Uses**

Land and buildings in a PUD may only be used for the following uses or combination of such uses, as may be indicated on the development plan and approved by the Planning Commission:

- A. Single and two family dwellings, multi-family dwellings and townhouses are permitted but only if combined with a different dwelling unit type or a non-residential use as part of a unified development plan. A PUD which proposes only a single type of dwelling e.g. all single family dwelling, shall not be permitted, except as provided by subsection (B and C) herein.
- B. Multi-family dwellings as a single use project.
- C. Mobile homes in a mobile home park as a single use project shall be a special use.
- D. Any use permitted by right in the Commercial (C-1) and Downtown Business District (DBD).
- E. Any special land use permitted in the Commercial (C-1) and Downtown Business District (DBD), when specifically authorized by the Planning Commission.
- F. Any legal land use not specifically authorized by the zoning ordinance which the Planning Commission determines would satisfy the purpose and objectives of the PUD chapter.

#### **7805) Development Requirements for All Uses**

The lot area, lot width, building height, setback, and yard requirements, general provisions, signs and parking regulations contained in this ordinance which would apply for the zoning district in which the uses proposed are normally allowed shall be met: except the Planning Commission may increase, decrease or otherwise modify these regulations, as may be requested by the applicant, or as determined by the Planning Commission to be appropriate in order to achieve the objectives of this Article. Other criteria which shall be used in making these determinations shall include the following:

- A. The modification will result in a project which better satisfies the intent and objectives of this Article.
- B. The modification will be compatible with adjacent existing and future land uses and will not significantly adversely affect the use and enjoyment of nearby property.
- C. The modification will result in the preservation of existing vegetation or other natural features on site.
- D. The modification is necessary due to topography, natural features or other unusual aspects of the site.
- E. The modification will improve or not impede emergency vehicle and personnel access.
- F. The modification will improve or not impede adequate pedestrian circulation.

- G. The modification will not result in traffic or other safety hazards; will not result in visual blight, distraction, or clutter; and will not otherwise result in a detriment to the public health, safety or general welfare.

### **7806) Development Requirements for PUDs with Residential Uses**

For Planned Unit Developments which will devote all or a portion of the site to residential land use the following requirements shall apply in addition to the requirements of section 7805:

#### **A. Determination of Number of Dwellings**

- a. The density requirements shall be determined by the square footage requirements for the R-1 Residential District in the Village. This shall dictate a density of one (1) unit per twenty-thousand (20,000 ft<sup>2</sup>) square feet.
- b. The Planning Commission may choose to allow fewer dwellings than permitted by section 7806.A.a, if in the opinion of the commission, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the PUD district.

#### **B. Formula to Determine the Number of Dwellings**

The number of dwellings which may be constructed within a PUD shall be determined as follows:

- a. Determine gross site acreage. The gross site acreage may include road right-of-way if included in the legal description.
- b. Subtract from the gross site acreage the following:
  - i. One-half of the acreage within the 100-year flood plain, wetland areas and areas permanently inundated by water such as lakes, ponds, streams and rivers.
  - ii. Acreage devoted to non-residential uses.
- c. The resulting acreage is the Net Development Acreage which is then multiplied by the density requirement from the R-1 Residential District, which is twenty-thousand (20,000 ft<sup>2</sup>) square feet.

The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Planning Commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer, or similar qualified professional person deemed acceptable to the Planning Commission.

#### **C. Additional Dwellings**

Subject to the limitations in this subsection 7806.C, additional dwellings above what is allowed by section 7806. B, above may be permitted at the discretion of the Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Village and residents of the PUD. Items which would be added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:

- a. Provision of recreational facilities such as playground areas with play equipment, ball fields, bike paths, ponds, community building or similar recreational facility.
- b. Additional landscaping to preserve or enhance the rural view along the roadway.
- c. Enhancement of existing wetlands, subject to applicable regulations.
- d. Provision of additional unique open space or mature stands of trees which would be of recognizable benefit to Village residents.
- e. Provision of a public community water, and public or private sanitary sewer system.

If additional dwelling units are to be permitted, the maximum number of dwelling units shall not exceed one (1) unit per fourteen-thousand (14,000 ft<sup>2</sup>) square feet. In no case shall the number of dwelling units exceed what is permitted by this section.

### **7807) Minimum Dedicated Open Space Requirements**

A PUD which devotes all or a portion of the site to residential uses shall provide and maintain dedicated open space at a ratio of twenty (20%) percent of the total site included in the PUD. This space may preserve or enhance a specific natural feature of the site or may consist of a central community square or squares which could be utilized for gatherings, civic functions, passive recreation such as picnicking or strolling or similar uses. This space shall be separate from any landscaping requirements of this ordinance.

- A. Areas Not Considered Dedicated Open Space: The following land areas shall not be classified as dedicated open space for the purposes of this section:
  - a. The area within any public street or street right-of-way.
  - b. The area within private road access easements.
  - c. Any easement for overhead utility lines unless adjacent to qualifying open space.
  - d. Fifty percent of the area of any floodplain, lakes, streams or other surface water bodies or wetlands.
  - e. The area within a platted lot or site condominium lot.
  - f. Any area not contiguous with the rest of the property proposed for planned unit development.
- B. Standards for Dedicated Open Space: The following standards shall apply to the dedicated open space provided in the development:
  - a. The dedicated open space shall be centrally located, located along the road frontage of the development, located to preserve significant natural features, and/or located to connect open space throughout the development.
  - b. If the site contains a lake, stream or other body of water, a portion of the dedicated open space shall abut the body of water.
  - c. A portion of the dedicated open space shall be located along the public road frontage abutting the site. The depth of this area shall be at least fifty (50') feet not including public road right-of-way, and this area shall be left in its natural condition or landscaped to help reduce the view of houses on site from the adjacent roadway and preserve the rural view.
  - d. Open space areas are encouraged to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.

- e. Grading in the dedicated open space shall be minimal, with the intent to preserve existing topography where practical.
  - f. Dedicated open space may consist of ball fields, tennis courts, swimming pools and related buildings, community buildings and similar recreational facilities. These uses however shall not utilize more than fifty (50%) percent of the dedicated open space.
- C. Guarantee of Dedicated Open Space: The applicant shall provide an open space preservation and maintenance agreement to the Planning Commission stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Village and the land uses continue as approved in the PUD plan, unless an amendment is approved by the Planning Commission.
- The agreement must be acceptable to the Planning Commission, after review and recommendation by the Village attorney, and may consist of a recorded deed restriction, covenants that run perpetually with the land, or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended.

The Agreement Shall:

- a. Indicate the proposed allowable use(s) of the dedicated open space.
- b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
- c. Provide standards for scheduled maintenance of the dedicated open space including necessary pruning, harvesting of trees and new plantings.
- d. Provide for maintenance to be undertaken by the Village of Kaleva in the event that the dedicated open space is inadequately maintained, or is determined by the Village to be a public nuisance, and requiring all such costs incurred by the Village to be assessed to the owners of the property within the PUD.

### **7808) Procedures**

An application for a PUD shall comply with the submittal and procedural requirements of Article 79 of this ordinance.

### **7809) Standards for Approval**

A PUD shall comply with the standards for approval of a PUD specified within Article 79 of this ordinance, in addition to all standards in this Article.

## **Article 79: Planned Unit Development Procedures and Regulations**

### **7901) Purpose**

This article sets forth procedures, regulations and approval standards for planned unit developments as established in Article 78 of this ordinance.

### **7902) Procedures**

- A. **Pre-application Conference:** Before submitting an application for a PUD, an applicant shall meet with the Planning Commission to submit information regarding a proposed PUD and to confer with the Planning Commission about the proposed application and the PUD.
- B. **Application for PUD Approval:** An application for a PUD shall comply with Article 78, and shall be in accordance with the application procedures for site plan review as required by Article 94 of this ordinance.
- C. **Sketch Plan:** An applicant shall submit a sketch plan in accordance with the requirements of section 9403 .
- D. **Environmental Impact Assessment:** The Planning Commission may require an environmental impact assessment as a part of the final development plan if:
  - a. The uses pose a potential threat to the Village water supply or a private well
  - b. The site contains unique natural features or contains threatened or sensitive plant and/or animal species
  - c. The layout, design and construction of the site poses potential threats to the natural environment.
- E. **Review of Sketch Plan:** The Planning Commission shall review the sketch plan and make recommendations to the applicant regarding the PUD, including changes required through provisions of this ordinance and changes that are recommended. Such review and other consideration of the sketch plan shall take place at a public meeting or meetings of the Planning Commission, and at a public meeting(s) of committees of the commission, where appropriate.
- F. **Detailed Site Plan:**
  - a. After receiving the recommendations of the Planning Commission on the sketch plan, the applicant shall submit a detailed site plan to the Zoning Administrator in accordance with the requirements of Article 94 of this ordinance. Copies of the plan shall be forwarded to the Planning Commission.
  - b. The detailed site plan shall contain all of the information required for review of the PUD through the site plan review process unless specifically waived by the Planning Commission as not being reasonably necessary for the consideration of the PUD, plus the following:
    - i. All of the drawings, narrative, studies, assessments, and other information, and materials comprising the sketch plan, including all of the recommendations of the Planning Commission thereon, or if the applicant has not incorporated all of such recommendations, the detailed

site plan shall indicate such fact and shall state the basis or grounds upon which such recommendations have not been included.

- ii. Projected time for completion of the entire PUD, proposed phasing, if any, of the PUD and the projected time for completion of each phase.
- iii. Any other information reasonably required by the Planning Commission in connection with its review of the PUD.

G. Public Hearing on PUD Application and Final Development Plan: The Planning Commission shall hold a public hearing on a PUD application and the proposed detailed site plan. The public hearing shall precede by notice and conducted in accordance with the requirements imposed by applicable laws and this ordinance for consideration of a special land use by the Planning Commission.

H. Consideration of PUD Application and Detailed Site Plan: After the public hearing the Planning Commission shall determine, at the same or a subsequent meeting, whether the PUD application and proposed detailed site plan complies with all applicable requirements and standards of this ordinance, including:

- a. Article 78
- b. Articles 10, 16, and 18 if applicable
- c. The general standards for special land use approval, article 86
- d. The standards for PUD approval specified in section 7902.I

I. Standards for Approval: In making a determination to approve a PUD, the Planning Commission must find that the proposed PUD meets the following standards:

- a. The development will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
- b. The development will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
- c. The development will be generally compatible with the Master Plan of the Village and consistent with the intent and objectives of Article 78.
- d. The development protects all floodplains and wetlands from filling except as approved for essential services or recreation amenities and as properly permitted through the DEQ.
- e. The development preserves and maintains the natural features of the site and maintains appropriate natural buffers where already established.
- f. Pedestrian walkways are provided in the development so that pedestrians can walk safely and easily throughout the site.
- g. The individual lots, buildings, roadways and open space areas in the development are designed to minimize the alteration of environmental site features whenever possible.
- h. The project can be adequately served by public utilities such as police and fire protection and Village water supply, and an onsite community sanitary sewer.
- i. The project will provide for a mix of uses of residential housing types (except as otherwise allowed in article 78), non-residential uses, and useable open space or

would allow for a use not specifically authorized in the Zoning Ordinance for the applicable zoning district.

- J. Conditions of Approval: The Planning Commission may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to insure that public services and facilities affected by a proposed project will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- a. They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project and the community as a whole.
- b. They shall be necessary to meet the intent and purpose of this ordinance, be related to the standards established in the ordinance for the proposed PUD under consideration, and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of the PUD shall be recorded in the record of the approval action.

### **7903) Amendments to Approved PUD**

- A. An approved Final Detailed PUD Site Plan and any conditions imposed upon the final PUD approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, or as otherwise allowed below for minor amendments.
- B. Minor Amendments: A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter any conditions required for the plan by the commission.

The following items shall be considered as minor changes:

- a. Reduction of the size of any building and/or sign.
- b. Movement of buildings and/or signs by no more than ten (10') feet.
- c. Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping.
- d. Changes in floor plans which do not alter the character of the use.
- e. Internal rearrangement of a parking lot which does not affect the size of the lot, the number of parking spaces, or alter access locations or design.
- f. Changes required or requested by the Village for safety reasons.
- g. Changes which will preserve the natural features of the site without changing the basic site layout.
- h. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any

significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator shall consult with the Chairperson of the Planning Commission.

- C. Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

#### **7904) Performance Guarantees**

The Planning Commission may require reasonable performance guarantees or assurances deemed satisfactory in the circumstances and authorized by law.

The Village, upon recommendation by the Planning Commission, may rebated or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed as verified by the Planning Commission or appropriate Village official.

#### **7905) Time Limitations on Development**

Each PUD shall be under construction within one year after the date of approval of the final development plan. If this requirement is not met the Planning Commission may, in its discretion, grant an extension not exceeding one year, provided that the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD.

## **Article 80: Non-Conformities**

### **8001) Purpose**

Within the districts established by this Ordinance or by amendments thereto, there exist buildings and structures and uses of parcels, lots, buildings, and structures which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated or restricted under this Ordinance. These uses are referred to as non-conformities and may continue until they are discontinued, damaged or removed but are not encouraged to survive. These non-conformities are declared by this Ordinance to be incompatible with the buildings and structures and uses of parcels, lots, buildings and structures permitted by this Ordinance in certain districts. It is further the intent of this Ordinance that such non-conformities shall not be enlarged, expanded or extended except as provided herein nor to be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same district.

### **8002) Regulations**

No such nonconforming use of land shall be moved in whole or in part to any other portion of such land, or to a different parcel, not occupied on the effective date of adoption of amendment of this Ordinance, except as provided in Section 8003.

### **8003) Extensions**

A nonconforming structure and use may not be added to, extended, reconstructed, structurally altered or expanded during its life; and a parcel may not be used or built upon; except for any one or combination of the following and subject to the following restrictions:

- A. If the nonconformity is a use which is not otherwise allowed in the zoning district; then the use and the structures upon which the use is associated shall not be expanded more than fifteen (15%) percent in size, hours of operation or level of service, or any other extension than what exists at the time of adoption of this Ordinance. Under no condition shall the parcel be expanded and the use be expanded to a contiguous parcel.
- B. If the nonconformity is that the parcel is too small and already has existing uses and structures; then the structures shall not be expanded more than:
  - a. fifteen (15%) percent of the ground area occupied by the structure at the time of adoption of this Ordinance, or
  - b. spatially possible while such expansion shall comply with all applicable setback regulations in this Ordinance.  
whichever is less. Any expansion of the structure shall comply with all other provisions of this Ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the parcel into compliance, or to lessen the nonconformity if the use is permitted in the respective zoning district.
- C. If the nonconformity is that the parcel is too small, and the parcel is vacant; then a use or structure shall not be permitted unless contiguous land is added to the parcel, to make the parcel large enough, except:

- a. It is documented by the applicant that contiguous land, or enough contiguous land, cannot be purchased, and
  - b. The parcel is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the District 10 Health Department, and
  - c. The nonconforming parcel was not created by division, which does not comply with both the zoning ordinance in effect at the time of the division and this Ordinance, and
  - d. A variance is granted by the Appeals Board.
- D. If the nonconformity is that the structure is too small; then the use shall not be expanded more than fifteen (15%) percent in hours of operation or level of service, or other similar extension than what exists at the time of adoption of this Ordinance. Nothing here is intended to prevent any amount of addition to the size of the structure, if:
- a. The size of the structure is the only nonconformity, and
  - b. The addition results in the structure being in full compliance, or as a second choice, closer to compliance.

#### **8004) Repairs and Maintenance**

Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq., relative to the maintenance of buildings or structures; provided, however, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed thirty (30%) percent of the replacement value of such building at the time such work is done; and provided, further, there shall be no change of use which would expand the nonconformity of such building at the time such work is commenced; and provided, further, there shall be no change of use of said building or part thereof.

#### **8005) Building Damage**

No building damaged by fire, act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the full amount insured) shall be repaired or rebuilt, except

- A. in conformity with the non-use provisions of this Ordinance; and in conformity with the permitted and/or special use provisions of this Ordinance, or
- B. reconstruction, repair or restoration of the original use without expansion of non-conforming uses, building footprint or square footage shall be completed within one (1) year following the damage and resumption of use takes place within ninety (90) days of completion. The one (1) year may be extended by the Appeals Board if it finds one of the following conditions to exist:
  - a. The delay was not avoidable due to weather;
  - b. The delay was a result of a criminal investigation;

- c. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance, or
- d. Property held in probate.

### **8006) Completion**

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been diligently prosecuted prior to the passage of this Ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption.

### **8007) Non-Use**

Any building, structure or land that has been used for nonconforming purposes but which has not been occupied by such nonconforming use for one (1) year or more shall not thereafter be used unless it conforms to the provisions of this Ordinance. An extension may be granted by the Appeals Board for any one of the following reasons:

- A. Property held in Probate;
- B. Insurance settlement in dispute; or
- C. Criminal investigation.

### **8008) Change of Tenancy or Ownership**

There may be change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure; and the use continues uninterrupted.

### **8009) Nonconforming Special Uses**

- A. There are uses which were permitted by right under the Kaleva Village Zoning Ordinance in effect immediately prior to this Ordinance which are not permitted uses under this Ordinance. Of those uses, there are some which are listed as potential special uses in this Ordinance. Those existing uses which were permitted uses, and are listed as special uses in this Ordinance, shall not be considered nonconforming uses.
- B. Those uses, or parts of uses, which exist as a permitted use immediately prior to this Ordinance, and are listed as special uses in this Ordinance shall be considered to be an approved existing special use with the configuration shown on a site plan drawn to reflect how the use exists at the time of adoption of this Ordinance. Parts of uses which are nonconforming immediately prior to the adoption of this Ordinance shall continue to be nonconforming under this Ordinance. A permit in existence pursuant to this subsection shall be known as a Pre-existing Special Use Permit.
- C. An owner of an Pre-existing Special Use Permit may, at no charge to the owner, obtain from the Commission a certification of a site plan reflecting how the use exists at the time of adoption of this Ordinance with identification of nonconforming parts, if any. In the case of a dispute over facts on what existed at the time of adoption of this Ordinance, aerial photographs flown in Spring, 2013 by Manistee County or other aerial photographs, flown to the same or greater standards for mapping as the county's photos, taken after the County photos but before the adoption of this Ordinance, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this

section, the above mentioned photo(s) may be accepted as a portion of the site plan for the Pre-existing Special Use Permit.

- D. When a special use owner applies to amend the unwritten Special Use Permit for expansion or change, a written Special Use Permit shall be prepared for the entire use and parcel. In review of the Special Use Permit amendment application for expansion or change, the Commission shall only review and act on the expansion or change portion of the Special Use Permit. If the application for amendment of the Special Use Permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special use that are shown on the Pre-existing Special Use Permit.

### **8010) Nonconforming Uses**

The administrator shall survey the Village and file with the Commission a written statement of the nature and extent of the nonconforming uses after adoption of this Ordinance, or any amendments thereto. The determination of when a nonconforming use may be replaced, extended, substituted or substandard parcels used shall be determined in the first instance by the administrator. Any determination concerning non-conformities may be appealed to the Appeals Board.

## **Article 82: Administration of This Ordinance**

### **8201) Purpose**

It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violations and enforcement of the provisions of this Ordinance and amendments thereto.

### **8202) Zoning Administrator**

- A. The provisions of this Ordinance shall be administered by the Kaleva Village Zoning Administrator. Applicants for the office of administrator shall be interviewed by the Commission. The Commission shall make its recommendations to the Village Council regarding the qualifications of the applicants. The Village Council shall appoint, from the list of applicants recommended by the Commission, an administrator who shall serve for such term, subject to such conditions, and at such rate of compensation as the Village Council shall determine, and the duty of the enforcement of this Ordinance shall rest with the administrator as shall be authorized by law.
- B. Eligibility. Elected officials of Kaleva Village and/or members of the Commission and Appeals Board shall be ineligible for appointment to the office of administrator, except as otherwise provided in Section 8202.C.
- C. Interim Administrator. In the event of the resignation, death, disability, vacation or disqualification of the administrator, the secretary of the Commission shall serve as interim administrator until a new administrator shall be appointed by the Village Council, or the existing administrator again assumes his duties.
- D. In issuing an order, requirement, decision or determination on any discretionary matter referred to him or upon which he is required to pass under this Ordinance, it shall be sufficient for the administrator to reasonably conclude that in addition to the standards set forth in this Ordinance, the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purposes of this Ordinance, is compatible with the natural environment, is consistent with the capabilities of public services and facilities affected by such order, requirement, decision or determination and protects the public health, safety and welfare, and is consistent with constitutional requirements of due process and equal protection of the law.

### **8203) Zoning Administrator Duties**

The administrator shall submit to the Commission quarterly reports detailing land use permits submitted during the period which fully explain the type and nature of uses permitted by right; the nature and extent of violations of this Ordinance; and the type and nature of nonconforming uses, buildings, and structures.

## **Article 84: Permits**

### **8401) Land Use Permits**

No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this Ordinance until a land use permit authorizing the same shall be issued by the administrator.

### **8402) Land Use Applications**

- A. If a use is listed in a respective land use district as a permitted use, anyone with an interest in a parcel may apply for a land use permit under this section. Land use permit applications are made on a form prepared by the administrator and presented to the administrator.
- B. The administrator shall require that the application include the form, copies of plans, specifications and such other information as he may deem necessary. Such other information shall include, but not be limited to:
  - a. A site plan, drawn to the specifications of sections 9404, 9405 or 9406 of this Ordinance.
  - b. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
  - c. A concise statement of all operations and uses which will be conducted on the land and buildings.
  - d. A concise statement of the services, if any, to be offered to the public, if applicable.
  - e. Any other information required by this Ordinance.
  - f. A non-refundable fee. The fee shall be established from time to time by the Village Council.
  - g. A copy of any other necessary permits required prior to a Construction Code Permit or a copy of a written agreement for, or written intent for concurrent approval for those permits.
- C. The application, and all the supporting documents, shall be kept by the Village as part of the Administrator's permanent records.
- D. The application and site plan, if applicable, shall show the proposed use and structures which will be developed in compliance with all aspects of this Ordinance.
- E. Upon receipt of a land use permit application, the zoning administrator shall review the application to insure it is complete, to coordinate its review with other agencies, if required, and act on the application within ten (10) days:
  - a. If the application is not complete, the administrator shall return the application with a letter that specifies the additional material required.
  - b. If the application is complete, but is found not to conform with this Ordinance, a permit denial shall be sent to the applicant, in writing, listing the violations of the Ordinance, and what changes would be necessary to obtain a permit, if any changes made would make it possible for a land use permit to be issued.
  - c. If the application is complete and the proposed land use and structures are found to comply with this Ordinance, a land use permit shall be issued.

- F. A land use permit shall be required prior to the issuance of a Michigan State Construction Code permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq.

### **8403) Permit Exemptions**

Section 8402 notwithstanding, a land use permit or fee is not needed under this section for the following uses. Nothing in this section exempts or requires construction permits, other than required by P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq.

- A. Only exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner, and the use of the land remains one of those listed as permitted in the respective land use district.
- B. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for any modification to such building in connection with said relocation or replacement, unless said modification structurally alters the premises or changes the exterior shape or form in any manner.
- C. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of over ground or underground gas, electrical, water, communication, or sewer systems, for the local distribution and/or collection systems via pipes, drains, sewers, wires, cables, traffic signals, hydrants, towers, pools, electrical substations, gas regulation stations, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service to individual customers/clients, but not including regional, long distance, interstate distribution or collection systems. Unless utilities are listed as a special use within a respective zoning district.
- D. Open Space.
- E. Individual recreation uses such as boating, hiking, hunting, fishing and trapping.
- F. Plowing and planting cash crops, row crops, orchards, or use of land as pasture or fallow when part of a permitted agricultural operation on one or more parcels of land.
- G. Harvesting of timber as part of a forest management activity when part of a forest management plan.
- H. Hedges, arbors, trees, gardens, plants, shrubs.
- I. Sidewalks, driveways to dwellings, duplexes, apartment buildings. (This does not waive permits that may be required by the County Road Commission or the State Department of Transportation for connection to public roads and streets.)
- J. Domestic animal shelters.
- K. Accessory structures to dwellings and duplexes which are constructed by minors or children for purposes of play by the same minors and children including, but not limited to, playhouses, dollhouses, tree houses, forts, hideouts, and so on, so long as such accessory structures adhere to setback requirements of this Ordinance.
- L. Personal property sales.

#### **8404) Start Work Deadline**

A land use permit issued under this Article is void if the use is not commenced within one (1) year. A renewal may be granted by the Administrator after a restudy of the permit at no cost to the applicant if the original provisions of the submitted application for the permit for the site are unchanged, and the applicant continues to meet all requirements for a permit.

#### **8405) Void Permits**

- A. A violation of any condition or specification in a permit issued under this Article shall void the permit.
- B. Any improper or incorrect information contained in the application for permit issued under this Article shall void the permit until properly corrected upon the permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

## **Article 86: Special Uses**

### **8601) Purpose**

This Ordinance divides the Village into districts in which specific uses are permitted which are mutually compatible. In addition, there may be certain other uses which may be appropriate to include in a district due to the specific circumstances surrounding the use, the impact on neighboring uses and public facilities. Such uses, because of their particular location or the particular nature of the service offered, may be established in a district through a Special Use Permit.

### **8602) Authority to Grant Permits**

The Commission has the authority to approve or disapprove Special Use Permits in accordance with this Ordinance. If approved by the Commission, the administrator shall issue these permits.

### **8603) Application and Fee**

If a use is listed as a possible special use in any district, anyone with an interest in the property may apply for a Special Use Permit. A Special Use Permit application shall be made on a form provided by the administrator and submitted to the administrator along with required information and the required fee. The fee will be established from time to time by the Council. Any additional costs incurred in processing the application, beyond that covered by the fee, shall be paid by the applicant before the permit is issued. No portion of the fee shall be refundable.

### **8604) Information Required in Application**

- A. An application for Special Use Permit shall include:
  - a. The applicant's name and address.
  - b. A signed affidavit the applicant is the owner, or has an ownership interest, or is acting on the owner's behalf.
  - c. The address and legal description of the property.
  - d. A specific statement and supporting information regarding the required findings for the Special Use Permit, as stated in Section 8608.
  - e. A detailed site plan as specified in Section 9406 of this Ordinance.
  - f. A complete description of the proposed development including: Areas of the site, the number of parcels or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, and related material as applicable.
  - g. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to community system capacity, change in traffic volume on adjacent roads and other factors that may apply to the particular development.
  - h. Statements relative to the impact of the proposed development on soil erosion, water body protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

- i. Evidence of having received or having an agreement for, or concurrent approval for, any other necessary permits required prior to a Construction Code Permit.
- B. In addition, the applicant may be required to furnish:
  - a. Elevations on all buildings, including accessory buildings.
  - b. An environmental assessment.
  - c. Measures which will be undertaken to control soil erosion, water body protection, excessive noise, or adverse impacts of the development on the surrounding properties.
- C. The applicant shall certify the information included is correct and that measures proposed to mitigate adverse impacts will be completed in a timely fashion, if the Special Use Permit is approved.

### **8605) Review for Completeness**

Upon receipt of the Special Use Permit application, the administrator will review the application to insure it is complete.

- A. If the application is not complete, the administrator will return the application to the applicant with a letter that specifies the additional material required.
- B. If the application is complete, the administrator and chairman of the commission shall establish a date to hold a public hearing on the Special Use Permit application.

### **8606) Notice of Public Hearing**

- A. The administrator shall notify the following persons of the public hearing of not less than fifteen (15) days prior to the date that the application will be considered via first class mail service of the US Postal Service.
  - a. The applicant.
  - b. The owner of the property, if different.
  - c. The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll.
  - d. Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested.
    - i. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice.
    - ii. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
  - e. The general public by publication in a newspaper of general circulation which circulates in the Village.
  - f. The members of the Commission.
- B. The notice shall include:
  - a. The nature of the Special Use Permit being requested.

- b. The property for which the request has been made.
  - i. Include a listing of all existing street addresses within the property
  - ii. If there are no addresses, other means of identification may be used
- c. The date, time and location of the public hearing.
- d. The address at which written comments should be directed prior to the hearing.
- e. For members of the Commission only, a complete copy of the special use permit application.

### **8607) Hearing and Decision**

- A. The commission shall hold a public hearing to receive input on the Special Use Permit application.
- B. Within sixty (60) days following the receipt of a complete application (unless a formal extension is mutually agreed to between the applicant and Commission), the commission shall either grant, grant with conditions, or deny the application. The decision shall be in writing and reflect the reasons for the decision. At a minimum the record of the decision shall include:
  - a. A summary of public comments made at the hearing,
  - b. Formal determination of the facts,
  - c. The conclusions derived from the facts (reasons for the decision),
  - d. The decision, and
  - e. A listing of any conditions upon which issuing a permit is issued or occupancy is allowed.

### **8608) Special Use Permit Standards**

- A. The standards for determining if a Special Use Permit is to be granted or not are:
  - a. Is the use reasonable and designed to protect the health, safety and welfare of the community,
  - b. Is the use consistent with the intent and purpose of the district,
  - c. Is the use compatible with adjacent land uses,
  - d. Is the use designed to insure that public services and facilities are capable of accommodating increased loads caused by the land use or activity, and
  - e. Does the use comply with other general and specific standards in article 10 and 16 of this Ordinance, the respective district, and general provisions of this ordinance.

### **8609) Special Use Permit Conditions**

- A. Special Use Permits can be granted with conditions, limitations, or additional requirements imposed by the commission. Any conditions, limitations or requirements upon which approval is based shall be:
  - a. reasonable and designed to protect natural resources, the health, safety and welfare of the public;
  - b. relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
  - c. a valid exercise of the police power;
  - d. related to the purposes which are affected by the proposed use or activity;

- e. consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective District;
- f. designed to insure compatibility with adjacent uses of land and the natural environment, or
- g. designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

### **8610) Record of Special Use Permit**

A notice of the Special Use Permit in recordable as provided by law shall be recorded with a property description with the Manistee County Register of Deeds, miscellaneous records. The application and all other information relating to the Special Use Permit shall be filed with the Village by the administrator.

### **8611) Security Requirement**

- A. To insure compliance with the site plan and Ordinance and any conditions, limitations or requirements imposed by the administrator or Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Village and future users or inhabitants of the proposed project or project area, the administrator, upon advice and consent of the Commission, may require
  - a. a cash deposit,
  - b. certified check,
  - c. irrevocable bank letter of credit or
  - d. surety bond,
 in an amount and under the conditions permitted by law.
- B. Such security shall be deposited with the Village Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- C. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance with.

### **8612) Amendment of Special Use Permits**

Amendments to Special Use Permits shall be handled in the same manner as the initial Special Use Permit application. However, minor non-substantive changes may be made to an existing Special Use Permit by mutual agreement between the Village and applicant, if done prior to the issuance of an occupancy permit.

### **8613) Transfer of Special Use Permit**

A Special Use Permit, with any and all associated benefits, conditions and required security may be transferred to a new owner. The responsibility for affecting the transfer shall be the original owner. If not transferred, the original owner shall continue to be held responsible for any conditions, security, etc. required by the Special Use Permit. The original owner, upon transferring the Special Use Permit shall advise the zoning administrator of said transfer in

order to insure the continued validity of the permit, compliance with security and other conditions.

#### **8614) Construction Code Permit**

A Special Use Permit shall be required prior to the issuance of a Michigan State Construction Code Permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq.

#### **8615) Expiration of Special Use Permits**

A Special Use Permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The Special Use Permit will expire on the occurrence of one or more of the following conditions:

- A. If replaced or superseded by a subsequent Special Use Permit.
- B. If replaced or superseded by a permitted use.
- C. If the applicant requests the rescinding of the Special Use Permit.
- D. If the use is not used, moved or vacated for a period of one year. Notice of the expiration shall be given to the property owner in writing.

#### **8616) Violation of Permit**

Any violation of the terms, conditions or limitations of a Special Use Permit shall be cause for revocation or suspension of the Permit. The Commission may either revoke or suspend, pending correction of the violation, any Special Use Permit. The act to revoke or suspend the Permit shall occur after giving notice to the permit holder, specifying the violation(s) alleged to exist and when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the Permit shall occur after or at the hearing on the mater. Before revoking or suspending the permit the Commission shall make a finding that a material violation of the Special Use Permit exists. The permit holder shall be given a reasonable opportunity to correct the violation(s).

## **Article 94: Site Plan**

### **9401) Purpose**

It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this Ordinance requires site plan review by the Commission for all multi-family, commercial and industrial uses and provides for the option of site plan review by the administrator for other developments.

### **9402) Site Plan Review**

- A. Every application for a land use permit shall include a site plan, drawn according to the specifications of this article. (A demand for appeal before the Appeals Board shall include a site plan drawn according to the specifications of this article.) The administrator shall review the site plan prior to issuing a land use permit, or the administrator shall transmit the site plan to the Commission for their review.
- B. There shall be three levels of site plans, for different complexities of proposed land uses:
  - a. A Basic Site Plan (Section 9404), for dwellings, additions to dwellings, construction of accessory structures to dwellings. These site plans shall only be subject to review by the Administrator.
  - b. A Medium Site Plan (Section 9405), for any permitted use -which is not a dwelling, addition to a dwelling, construction of accessory structures to dwelling - and for any matter before the Appeals Board which would not need a Detailed Site Plan. The Commission shall publish policy for when a Medium Site Plan - not drawn for an Appeal - shall be required to be reviewed by the Commission and/or a committee of the Commission, or the Administrator.
  - c. A Detailed Site Plan (Section 9406), for any Special Use or Planned Unit Development. These site plans shall only be subject to review by the Commission.
- C. Whenever possible site plan review by the administrator and Commission shall be coordinated and done simultaneously with other reviews by the administrator and Commission on the same application.

### **9403) Optional Sketch Plan Review**

Prior to submitting an application, or site plan, for a land use permit an applicant may choose to submit a sketch plan for review by the administrator and/or Commission. The sketch plan shall be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed parcel, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements, drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant, but must be a scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

#### **9404) Required Data for a Basic Site Plan**

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

- A. The property, identified by parcel lines and location and size.
- B. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
- C. The scale and north arrow
- D. Natural features such as woodlots, water bodies, wetlands, high risk erosion areas, slopes over 25%, beach, sand dunes, drainage and similar features.
- E. The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings and square footage of floor space.
- F. The proposed driveway, if any.
- G. Show any changes or modifications required for any applicable regulatory agencies' approvals. (Site plan or design plan changes required after the Commission issues a Special Use Permit shall also be changed in accordance with procedures established in this Ordinance for minor adjustments or amendments to Special Use Permits.)

#### **9405) Required Data for a Medium Site Plan**

The site plan shall be drawn to scale and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use.

- A. All the data required for a Basic Site Plan, spelled out in Section 9404 of this Ordinance.
- B. The parcel's legal description.
- C. Boundary dimensions of natural features such as woodlots, water bodies, wetlands, high risk erosion areas, slopes over 25%, beach, sand dunes, drainage and similar features.
- D. Location dimensions of existing and proposed man-made features such as buildings, structures, fences, water, storm sewer and sanitary sewer lines, storm water drainage and retention lines.
- E. Easements displayed to be recorded along parcel lines for reserved placement of utilities.
- F. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes and service parking, snow storage areas.
- G. Any proposed alterations to the topography and other natural features shall be indicated.
- H. Any proposed location of connections to existing utilities and proposed extensions thereof.
- I. Any proposed roads, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site;
- J. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.

- K. Location of landscaping including all provisions of section 1013 including, screening, buffering, parking lot landscaping and all general landscape requirements.
- L. Location of clearance for visibility at corners in 1013. C.
- M. Location of all outdoor lighting as provided for in section 1015.
- N. Location of all signs and type of signs as provided for in section 1016.
- O. Building elevations for all front and road facades displaying conformance to section 1014.
- P. A description of the proposed development.
- Q. A vicinity map showing the location of the site in relation to the surrounding street system.

### **9406) Required Data for a Detailed Site Plan**

A site plan which shall be of a scale not to be greater than one (1") inch equals twenty (20') feet nor less than one (1") inch equals two hundred (200') feet, and of such accuracy that the Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The Commission, upon initial review of the site plan, may act to require any information specifically waived by the administrator to be submitted. Such site plan shall be designed and prepared by a registered professional architect, landscape architect, engineer, land surveyor, community planner, owner or other qualified individual. Unless so waived, all site plans shall include the following information:

- A. All the data required for a Basic Site Plan, spelled out in Section 9404 of this Ordinance and for a Medium Site Plan, spelled out in Section 9405 of this Ordinance.
- B. The proposed location of any open spaces
- C. The location, proposed finished floor and grade line elevations.
- D. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
- E. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of topography.
- F. Generalized soil analysis data, which may include data prepared by the Manistee County Soil and Water Conservation District or Manistee County Planning Department regarding the soils and their adaptability to the use. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of soils.

### **9407) Required Data for a site plan involving special Groundwater Protection provisions.**

- A. Applicability of this additional site plan content for groundwater protection: Facilities (except fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor) which use or generates hazardous substances:

- a. in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or
  - b. stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less shall be subject to site plan review requirements.
- B. In addition to all the data required for a Basic Site Plan, set forth in Section 9404, Medium Site Plan set forth in Section 9405, or a Detailed Site Plan set forth in Section 9406, whichever is applicable; the following shall also be shown in the site plan:
- a. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
  - b. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.
  - c. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
  - d. Location of all water wells on the site and within 150 feet surrounding the parcel's property boundaries.
  - e. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.
  - f. Submission of the "Hazardous Substances Reporting Form for Site Plan Review".
  - g. Submission of the "State/County Environmental Permits Checklist".
  - h. If the area covered by the site plan includes territory within a Wellhead Protection Overlay Zone submit a site plan review report prepared by a Manistee County Groundwater Staff Review Group (c/o Manistee County Planning Department). The site plan review report shall be a written document reporting on a county review of the same site plan prepared for this section. If the area covered by the site plan does not include territory within a Wellhead Protection Overlay Zone a site plan review report prepared by the Manistee County Groundwater Staff Review Group may be submitted at the option of the applicant or may be required at the option of the Commission or administrator, whichever is applicable.

### **9408) Submission of a Site Plan**

Three (3) copies of a site plan shall be submitted with a land use permit application to the administrator. In the case where a committee of the Commission or the Commission is reviewing the site plan, eight (8) copies of the site plan shall be submitted to the administrator. If applicable more copies may be requested for distribution to individuals, agencies or departments listed in section 9409. B. a.

### **9409) Review for Completeness.**

The Administrator shall review the site plan received to insure it is complete, and contains all the elements required by this Ordinance. Such finding shall be done concurrently with similar required findings that a land use application is complete.

- A. If the site plan is not found to be complete, the administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.
- B. If the site plan is found to be complete, the administrator shall:
  - a. Only as applicable, forward copies of the site plan to the Village Engineer, County Road Commission, Village Department of Public Works, County Planning Department and Soil Erosion Control Officer, County Drain Commissioner, District 10 Health Department, Michigan Department of Transportation, or Michigan Department of Environmental Quality, for their recommendations to be subsequently forwarded with the site plan, and
  - b. Determine if the site plan is to be reviewed and acted upon by him, and then do so, or
  - c. Determine if the site plan is to be reviewed and acted upon by the Appeals Board, and then forward the copies of the site plan to each member of the Appeals Board a week prior to their meeting, or
  - d. Determine if the site plan is to be reviewed and acted upon by the Commission or a committee of the Commission, and then set up a site plan review meeting and forward the copies of the site plans to each member of the Commission (or a committee of the Commission) a week or more prior to the Commission's meeting.

### **9410) Standards for Site Plan Review**

The following standards shall be used by the Commission and administrator to review site plans:

- A. All applicable regulations of this Ordinance which apply generally to all districts, and all applicable regulations of this Ordinance which apply to the specific zoning district, to any conditions imposed with the granting of a Special Use Permit or variance, shall be shown on the site plan as being complied with.
- B. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric, telephone, coaxial cable and other lines shall be located underground unless this requirement is specifically waived by the administrator, Commission or Appeals Board upon review of the site plan.
- C. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the Village and designed in compliance with any applicable federal and state statute, Village and County Drain Commission stormwater guidelines.

### **9411) Approval and Compliance**

- A. In cases where the administrator reviews the site plan pursuant to section 9402; within seven (7) days of the site plan being found complete, as specified in section 9409, the Administrator shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.

- B. In cases where the Commission, or a committee of the Commission, reviews the site plan; within thirty (30) days of the site plan being found complete, as specified in section 9409, the Commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons with reasons stated on the record at an open meeting pursuant to Michigan's Open Meetings Act, Public Act No. 267 of 1976, as amended.
- C. The action shall be recorded in a record of the land use permit application and shall be filed with the administrator. The administrator or Commission shall notify the applicant in writing of its decision. If rejected, the reasons for rejection and, if approval is possible, the requirements for approval, shall be given to the applicant, in writing, attached to the rejection. If the administrator or Commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and administrator or Commission mutually agrees, the time limit may be extended.

### **9412) Conditions of Site Plan Approval**

- A. A site plan can be approved with conditions necessary to comply fully with the intent of this Ordinance. All conditions shall be shown on the approved site plan and/or shall be in writing.
- B. Reasonable conditions may include conditions necessary to:
  - a. insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,
  - b. protect the natural environment and conserve natural resources and energy,
  - c. insure compatibility with adjacent uses of land, and
  - d. promote the use of land and adjacent lands in a socially and economically desirable manner.
- C. Conditions imposed shall meet all of the following requirements:
  - a. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

### **9413) Security Requirement**

- A. To insure compliance with the site plan and Ordinance and any conditions, limitations or requirements imposed by the administrator or Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Village and future users or inhabitants of the proposed project or project area, the administrator or the Commission may require
  - a. a cash deposit,

- b. certified check,
  - c. irrevocable bank letter of credit or
  - d. surety bond.
- in an amount and under the conditions permitted by law.
- B. Such security shall be deposited with the Village Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
  - C. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance with.

#### **9414) File Copies**

At least two (2) copies of the site plan, all accompanying documents, record of approval, list of conditions and security shall be kept by the Village for its records.

#### **9415) Land Use Permits**

No land use permit or Michigan Construction Code building permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq., shall be issued or otherwise authorized until after the site plan has been approved and any required securities have been received.

#### **9416) Amendment of Site Plan**

An application may be considered to amend an existing site plan, and shall be handled in the same manner for the initial site plan review prescribed by Section 9401 et. seq. of this Ordinance. By mutual agreement between the Village and applicant, minor non-substantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the Special Use Permit.

## **Article 96: Appeals Board**

### **9601) Appeals Board Established**

There is hereby established an Appeals Board, which shall perform its duties and exercise its powers as provided in Michigan Public Act 110 of 2006 as amended, being the Michigan Zoning Enabling Act, MCL 125.3101., et seq., in such a way the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

### **9602) Duties of the Appeals Board**

The Appeals Board shall hear and decide such matters as the Appeals Board is specifically authorized to pass on as provided in this Ordinance and such matters as may be provided by law, including, but not limited to, variances, interpretation of Ordinance text and map.

### **9603) Rules of Procedure**

The Zoning Board of Appeals may adopt those rules of procedure it deems necessary to assist it in the performance of its duties.

### **9604) Variance**

A variance from the terms of this Ordinance shall not be granted by the Appeals Board unless and until:

- A. A written request for a variance is submitted, demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - c. That the special conditions and circumstances do not result from the actions of the applicant.
  - d. That granting the variance will not alter the essential character of the area.
- B. No nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- C. The Appeals Board shall make findings that the requirements of this Ordinance have been met by the applicant for a variance.
- D. The Appeals Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- E. The Appeals Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- F. In granting any variance, the Appeals Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance and including but not limited to

requirements for a buffer area, greenbelt, vegetation belt or increased setbacks. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under section 9804.

### **9605) Meetings and Records**

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board in rules of procedure may specify. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Village clerk and shall be a public record.

### **9606) Voiding of and Re-application for Variance**

The following provisions shall apply:

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless:
  - a. The construction authorized by such variance or permit has begun within one (1) year after the granting of such variance and pursued diligently to completion; or
  - b. The occupancy of land or buildings authorized by such variance has taken place within one (1) year after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Appeals Board shall be resubmitted for a period of one (1) year from such denial, except on grounds of new evidence or proof of changed conditions found by the Appeals Board to be valid.

### **9607) Interpretation of Ordinance Text**

- A. Interpretation - Pursuant to the requirements of Public Act 207 of 1921, as amended, being City or Village Zoning Act, as amended, MCL 125.581; nothing contained herein shall be construed as prohibiting the Appeals Board from interpreting the text of this Ordinance in such a fashion that will allow in a land use district buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use district, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance text.
- B. Standards - In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Appeals Board shall consider the relevant policies for the Land Use District in question as set forth in the Master Plan, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District.
- C. Precedent - An earlier determination under this section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier

determination with respect to an identical, sufficiently similar special use shall be considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a Special Use Permit in that Land Use District, but shall otherwise be subject to all requirements of section 8608.

## **9608) Procedure**

The following provisions shall apply:

- A. **Appeals, How Taken:** Appeal from the ruling of the Administrator or the Commission or the Council concerning the enforcement, administration, and interpretation of this Ordinance text and map may be made to the Appeals Board, by the filing with the Administrator a demand for appeal specifying the grounds thereof within thirty (30) days of the date a decision is received by the appellant. Date of receipt shall be presumed to be five days after the date shown on the decision. The demand for appeal shall be on a form prepared by the Village for that purpose and shall also include a site plan. The Administrator shall transmit to the Appeals Board all the papers constituting the record upon which the action appealed from was taken.
- B. **Who May Appeal:** Appeals to the Appeals Board may be taken by any person aggrieved or by any officer, department, Council, agency, or bureau of the Village, County, or State.
- C. **Fee for Appeal:** A fee prescribed by the Village Council shall be paid to the administrator at the time of filing the demand for appeal. If the Village Council finds an applicant to be indigent, the fee may be waived by the Council.
- D. **Effect of Appeal:** Restraining Order - An appeal stays all proceedings in furtherance of the action appealed from unless Administrator certifies to the Appeals Board, after the notice of appeal shall have been filed with him, that by 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 otherwise than by a restraining order granted by the Appeals Board or by the Circuit Court, on application, on notice to the Administrator and on due cause shown.
- E. **Hearing By the Appeals Board, Demand for Appeal, Notice: Hearing:** When a demand for appeal has been filed in proper form with the Appeals Board:
  - a. for a specific piece of property, the Administrator shall immediately place the said demand for appeal upon the calendar for hearing, and cause notice to interested parties, stating the time, place, and object of the hearing to be served personally or by first class mail. Interested parties, at a minimum, shall include Appeals Board members, the Village's attorney, the appellant, the property owner and resident, individuals who own or occupy any property within 300 feet of the property the appeal is for. The public hearing shall also be advertised in a newspaper of general circulation within the Village fifteen (15) days prior to the date of the hearing.
  - b. If the appeal is not in regard to a specific parcel of property, the notification of a public hearing need only be advertised in a newspaper of general circulation within the Village fifteen (15) days prior to the public hearing.
- F. **Representation at Hearing:** Upon the hearing, any party or parties may appear in person or by agent or by attorney.

G. **Decisions of the Appeals Board and Appeals to the Circuit Court:** The Appeals Board shall decide by an affirmative vote of a 2/3 majority of all its members upon all matters appealed within sixty (60) days of the receipt of a demand for appeal, and fee by the administrator, unless mutually agreed by both parties to extend the time, and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Administrator, or Commission, from whom the appeal is taken for administration and enforcement of this Ordinance. The Appeals Board decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Appeals Board in each particular case. Any person having an interest affected by such decision shall have a right to appeal to Circuit Court as provided by law.

### **9609) Appeals Board Members**

The Appeals Board shall consist of the voting members of the Council.

## **Article 98: Amendment Validity Penalties**

### **9801) Initiating Amendments and Fees**

The Village Council may from time to time, on recommendation from the Commission, amend, modify, supplement or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Village Council, the Commission, or by petition of one or more owners of property to be affected by the proposed amendment. Except for the Village Council, or the Commission, the petitioner or petitioners requesting an amendment shall at the time of application pay a filing fee as set from time to time by the Village Council.

### **9802) Amendment Procedure**

The procedure for making amendments to the Ordinance shall be in the manner provided by law in Public Act 110 of 2006, the Michigan Zoning Enabling Act MCL 125.3101 et seq.

#### **A. Planning Commission Public Hearing and Notice Requirements**

- a. An amendment that is brought before the Planning Commission must be made available for comment through a public hearing held by the Planning Commission or the Village Council. The requirements for notification of the public hearing for an amendment shall conform to the requirements of section 202 of the Zoning Enabling Act, as outlined below:
  - i. A public hearing conducted for a text or map amendment to the ordinance shall have a notice published in a newspaper of general circulation in the Village not less than fifteen (15) days before the date of the hearing.
  - ii. Notice shall be provided when personally delivered, delivered by the US Postal Service or other delivery service, to the owners of the property subject to the request and to all persons to whom real property is assessed within three-hundred (300') feet of the property subject to the request and to all occupants of all structures within 300 feet of the subject property.
    1. Notice need not be given to more than one (1) occupant of a structure, except that if that structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit shall be given notice. If a single structure contains more than four (4) dwelling units leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
  - iii. The notice required under this procedure shall include all of the following information:
    1. Describe the nature of the request.
    2. Indicate the property that is subject to the request.
    3. State when and where the request will be considered.

4. Indicate when and where written comments will be received concerning the request.
- B. The Village Council after receiving an amendment from the Planning Commission may hold a public hearing if it considers it necessary or if otherwise required. A public hearing shall not be required if a public hearing had been held by the Planning Commission prior to recommending the amendment, except for the provisions provided for in section 9802.B.a, below. Notification of the public hearing to be held by the legislative body shall be given in the same manner as required under section 9802.A of this ordinance, except as provided for in section 9802.B.a.i, of this ordinance.
    - a. The Village Council shall grant a hearing on a proposed ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the Clerk of the Village Council.
      - i. A public hearing requested by an interested property owner shall only require a notice of the hearing be provided to only that property owner fifteen (15) days prior to the scheduled date of that hearing. The notice shall include the information contained in section 9802.A.a.iii, of this ordinance.
  - C. After the public hearing, the Village Council shall consider and vote upon the adoption of amendment(s) to the Zoning Ordinance. Amendment(s) shall be approved by a majority vote of the members of the Village Council.
  - D. Following the adoption of an amendment to the Zoning Ordinance by the Village Council, the amendment(s) shall be filed with the Clerk of the Village Council, and a notice of the adopted amendment shall be published in a newspaper of general circulation in the Village within fifteen (15) days after adoption.
  - E. A zoning amendment shall take effect upon the expiration of seven (7) days after publication of notice of the adopted amendment.

### **9803) Conformance to Court Decree**

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Village Council and the amendments published without referring the same to any other Council or agency.

### **9804) Violations and Penalties: Nuisance Per Se: Abatement**

Uses of land, and dwellings, buildings or structures, including tents and mobile homes, used, erected, altered, razed or converted in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of the Ordinance shall upon conviction thereof be subject to a fine of not more than three hundred (\$300.00) dollars and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed ninety (90) days, or both, in the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance. The Village Council, Administrator, Appeals Board, Commission, the Village Attorney or any owner or owners of real estate within the district in which such building, structure or land is situated

may institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove any said unlawful erection, construction, alteration, reconstruction, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

### **9805) Caption**

The captions used in this Ordinance shall not be deemed to be a part of this Ordinance and shall not be construed to enlarge or restrict the rights and obligations otherwise contained herein.

### **9806) Pending Zoning Applications**

All applications for permits, appeals and variance requests pending before the Administrator, the Planning Commission, or the Appeals Board on the effective date of this Ordinance shall be acted upon only in conformance with the provisions of this Ordinance.

### **9807) Validity and Severability Clause**

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, district, use, building, or structure not specifically included in said ruling.

### **9808) Period of Effectiveness**

This Ordinance shall remain in full force and effect henceforth unless repealed.