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VILLAGE OF FAIRGROVE ZONING ORDINANCE

ORDINANCE NO. 100

2016

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Contents

ZONING ORDINANCE	5
VILLAGE OF FAIRGROVE.....	5
ORDINANCE NO. 100.....	5
ARTICLE I Title	5
Section 1.01	5
ARTICLE II Activities Covered By Ordinance	5
Section 2.01	5
ARTICLE III Administration	5
Section 3.01. ZONING ADMINISTRATOR.	5
Section 3.02. ZONING PERMITS.	5
ARTICLE IV Zoning Districts	6
Section 4.01. DISTRICTS.	6
Section 4.02. DISTRICT BOUNDARIES AND MAP.....	6
Section 4.03. PRINCIPAL USES PERMITTED.....	6
Section 4.04. SPECIAL LAND USES.	6
ARTICLE V AR Agricultural and Residential District	6
SECTION 5.01. PRINCIPAL USES PERMITTED.....	6
Section 5.02. SPECIAL LAND USES.	7
ARTICLE VI R Single-Family Residential District.....	8
Section 6.01. Principal Uses Permitted.....	8
Section 6.02. SPECIAL LAND USES.	8
ARTICLE VII RM Multiple-Family Residential	9
Section 7.01. PRINCIPAL USES PERMITTED.....	9
Section 7.02. USES PERMITTED AFTER SPECIAL APPROVAL.....	9
ARTICLE VIII MHP Manufactured Housing Park.....	9
Section 8.01. PRINCIPAL USES PERMITTED.....	9
ARTICLE IX CBD Central Business District	10
Section 9.01. PRINCIPAL USES PERMITTED.....	10
Section 9.02. SPECIAL LAND USES.	10
ARTICLE X C-I Commercial-Industrial District.....	10
Section 10.01. PRINCIPAL USES PERMITTED.....	10
Section 10.02. SPECIAL LAND USES.	10
Article XA R-1 Residential Professional District.....	11
ARTICLE XI Area, Setback and Height	11
Section 11.01. COMPLIANCE.	11
Section 11.02. TABLE OF AREA, SETBACK AND HEIGHT REQUIREMENTS.....	11
ARTICLE XII Parking and Loading Requirements	12
Section 12.01. GENERAL PARKING REQUIREMENTS.	12
Section 12.02. TABLE OF PARKING REQUIREMENTS.	12
Section 12.03. OFF-STREET LOADING REQUIREMENTS.	14
ARTICLE XIII General Provisions	14
Section 13.01. CONFLICTING REGULATIONS.	14
Section 13.02. STREETFRONTAGE.	14
Section 13.03. DEPTH TO WIDTH RATIO.....	14
Section 13.04. RESIDENTIAL OCCUPANCY OTHER THAN IN COMPLETED DWELLINGS.....	14
Section 13.05. SINGLE-FAMILY AND TWO-FAMILY DWELLING REQUIREMENTS.....	14
Section 13.06. SIGNS.....	15
Section 13.07. PONDS.....	16
Section 13.08. GREENBELTS.....	16

Section 13.09. TEMPORARY DWELLINGS.	16
Section 13.10. ONE DWELLING PER PARCEL.....	17
Section 13.11. PROHIBITED STRUCTURES.	17
Section 13.12. PUBLIC SERVICE FACILITIES, COMMUNICATION TOWERS, AND WIND ELECTRICAL GENERATION TOWERS.	17
Section 13.13. YARD SALES.....	19
Section 13.14. MOVING OF BUILDINGS, MANUFACTURED HOMES, AND OTHER STRUCTURES.	19
Section 13.15. RECREATIONAL VEHICLE PARKING AND STORAGE.	19
Section 13.16. ACCESSORY BUILDINGS.	20
Section 13.17. FENCES.	20
ARTICLE XIV Non-conforming Lots, Uses, and Structures.....	20
Section 14.01. CONTINUED NON-CONFORMING USES PERMITTED.....	20
Section 14.02. NON-CONFORMING LOTS OF RECORD.	20
Section 14.03. NON-CONFORMING STRUCTURES.	20
Section 14.04. NON-CONFORMING USES OF LAND OR STRUCTURES.	21
ARTICLE XV Planning Commission.....	21
Section 15.01. ESTABLISHED.	21
Section 15.02. POWERS.	21
ARTICLE XVI Site Plan Review Requirements.....	22
Section 16.01. SCOPE.....	22
Section 16.02. PROCEDURE.	22
Section 16.03. CONTENT.....	22
Section 16.04. STANDARDS.	22
Section 16.05. BOND.....	23
Section 16.06. TIME FOR COMPLETION.....	23
ARTICLE XVII Procedures For Special Land Use Approval By Planning Commission.....	23
Section 17.01. APPLICATION.....	23
Section 17.02. HEARING.	23
Section 17.03. STANDARDS.	23
Section 17.04. DECISION.	23
Section 17.05. EXPIRATION.	24
ARTICLE XVIII Zoning Board Of Appeals.....	24
Section 18.01. MEMBERSHIP.	24
Section 18.02. APPEALS.....	24
Section 18.03. ~AUTHORITY TO GRANT VARIANCES.	24
Section 18.04. DECISIONS.	24
Section 18.05. QUORUM REQUIREMENTS.....	25
Section 18.06. EXPIRATION OF VARIANCE APPROVALS.....	25
ARTICLE XIX Amendments and Rezoning.....	25
Section 19.01. APPLICATION.....	25
Section 19.02. NOTICE OF HEARING.....	25
Section 19.03. PLANNING COMMISSION HEARING AND RECOMMENDATIONS.....	25
Section 19.04. VILLAGE COUNCIL.	25
ARTICLE XX Voluntary Rezoning Agreements.....	26
Section 20.01. AUTHORITY.....	26
Section 20.02. APPLICATION.....	26
Section 20.03. PLANNING COMMISSION HEARING AND RECOMMENDATION.	26
Section 20.04. VILLAGE COUNCIL.	26
Section 20.05. STANDARDS FOR DECISION.	26
Section 20.06. LIMITATIONS ON AGREEMENTS.	26
Section 20.07. ZONING REVERSION.....	26
ARTICLE XXI Violations.....	27

Section 21.01. ENFORCEMENT AND PENALTY	27
Section 21.02. NUISANCE PER SE.	27
ARTICLE XXII Definitions	27
Section 22.01. DEFINITIONS.	27
ARTICLE XXIII Severability and Repeal	29
Section 23.01. SEVERABILITY.....	29
Section 23.02. REPEAL.	30
ARTICLE XXIV Enactment	30
Section 24.01. ORDINANCE ENACTED.	30
Section 24.02. EFFECTIVE DATE.....	30
Section 24.03. CERTIFICATION.	30

ZONING ORDINANCE
VILLAGE OF FAIRGROVE
ORDINANCE NO. 100

AN ORDINANCE to regulate the use of land within the Village of Fairgrove, Tuscola County, Michigan in accordance with the provisions of the Michigan Zoning Enabling Act, being Public Act 110 of the Public Acts of 2006, as amended.

THE VILLAGE OF FAIRGROVE ORDAINS:

ARTICLE I Title

Section 1.01

This Ordinance shall be known and cited as the Fairgrove Village Zoning Ordinance.

ARTICLE II Activities Covered By Ordinance

Section 2.01.

No building or structure, or part thereof, shall be erected, constructed, reconstructed, placed, altered, or moved; and no new use or change in use shall be made of any building, structure, or land, or part thereof; except in conformity with the provisions of this Ordinance.

ARTICLE III Administration

Section 3.01. ZONING ADMINISTRATOR.

The provisions of this Ordinance shall be administered and enforced by a Zoning Administrator appointed by the Village Council. The Zoning Administrator shall serve under such terms and at such rate of compensation as the Village Council may determine.

Section 3.02. ZONING PERMITS.

A zoning permit shall be acquired from the Zoning Administrator before any construction is undertaken, any structure is moved, or any change in the use of any land or structure is undertaken within the Village.

- A. APPLICATION. A zoning permit shall be applied for in writing on an application form provided by the Village.
- B. PERMIT ISSUANCE. A zoning permit shall be issued by the Zoning Administrator whenever the proposed use complies with the provisions of this Ordinance and any necessary Planning Commission Board of Appeals, or Village Council approvals have been obtained.

- C. EXPIRATION. A zoning permit shall expire one (1) year after the date of issuance unless the proposed use has been commenced within that year. Any amendment to the Zoning Ordinance shall have the effect of voiding any outstanding zoning permits for uses which have not been commenced and which would violate the amendment.
- D. VOID PERMITS. Any zoning permit issued in error or pursuant to an application containing any false statements shall be void.
- E. PRIVATE RESTRICTIONS. The Zoning Administrator shall not refuse to issue a zoning permit due to violations of private covenants, agreements, or deed restrictions if the proposed use is permitted by the Zoning Ordinance.
- F. FEES. The amount of any fees charged for zoning permits, applications, or inspections shall be established by the Village Council.

ARTICLE IV Zoning Districts

Section 4.01. DISTRICTS.

The Village is hereby divided into the following zoning districts'

- AR Agricultural and Residential
- R Single Family Residential
- RM Multiple Family Residential
- MHP Manufactured Housing Park
- CBD Central Business District
- CI Commercial and Industrial
- R-1 Residential Professional District

Section 4.02. DISTRICT BOUNDARIES AND MAP.

The boundaries of the zoning districts are shown on the zoning map which is a part of this Ordinance. The map shall be designated as the Fairgrove Village Zoning Map.

Section 4.03. PRINCIPAL USES PERMITTED.

All uses of land or structures listed as "principal uses permitted" shall be permitted throughout the district under which they are listed. Any use not expressly listed as a "principal use permitted" is prohibited in that district, unless approval has been obtained from the Planning Commission for the use as a "use permitted after special approval".

Section 4.04. SPECIAL LAND USES.

A use of land or structures listed as a "special land use" shall be permitted within the district under which it is listed, provided that Planning Commission approval has been granted pursuant to this Ordinance.

ARTICLE V AR Agricultural and Residential District

SECTION 5.01. PRINCIPAL USES PERMITTED.

- A. Farms, farm buildings, and farm uses on parcels of land containing ten (10) or more acres. Poultry, rabbits and livestock are allowed. Livestock on parcels less than forty (40) acres in size shall be limited to two (2) head per acre.
- B. Single-family dwellings (subject to Section 13.05).
- C. Roadside stands limited to the selling of locally raised fall produce.
- D. Family day-care homes.

- E. State licensed residential facilities for six or fewer residents.
- F. Buildings, structures and uses which are accessory to any of the above-permitted uses.

Section 5.02. SPECIAL LAND USES.

- A. Private parks, recreation facilities and activities, campgrounds, and golf courses.
 - 1. Minimum site size shall be ten (10) acres.
 - 2. All development features shall be located so as to minimize the possibility of any adverse effect upon adjacent property. This shall include a minimum setback of one hundred (100) feet from property lines.
 - 3. Activities shall be adequately screened from abutting property.
 - 4. Related accessory commercial uses may be permitted in conjunction with the recreation use when it is clearly incidental to the main recreational character of the property.
- B. Dog kennels and the raising of fur bearing animals.
 - 1. All animals shall be housed and maintained in a safe and sanitary manner which complies with American Kennel Club standards.
 - 2. All pens and runways in dog kennels shall be screened from view from any residences or roads by buildings or greenbelt plantings. Kennels shall have restrictive fencing at least six (6) feet in height.
 - 3. Dog kennels shall be set back a minimum of fifty (50) feet from each property line and one hundred fifty (150) feet from the road.
 - 4. For purposes of this section, a dog kennel is defined as any property on which four (4) or more dogs over the age of six (6) months are kept or harbored.
- C. Quarrying of soil, sand, clay, gravel or similar materials in excess of one thousand (1,000) cubic yards per year. Quarrying of less than one thousand (1,000) cubic yards per year shall not require Village approval.
 - 1. Each application for special approval shall contain the following:
 - (a) Names and addresses of property owners and proposed operators of the premises.
 - (b) Legal description of the premises.
 - (c) Detailed statement as to method of operation, type of machinery or equipment to be used and estimated period of time that the operation will continue.
 - (d) Detailed statement as to the type of deposit proposed for extraction.
 - (e) Reclamation plan and detailed statement as to the proposed use of the land after quarrying or fill operations are complete.
 - 2. Operational Requirements.
 - (a) Pit Operations.
 - (b) In operations involving excavations over five (5) feet in depth, the operator shall provide adequate safeguards to protect the public safety. The Planning Commission may require fencing, locked gates, and warning signs.
 - (c) The Planning Commission may require that any gravel or dirt roads used for the purpose of ingress and egress to said excavation site be kept dust free by hard topping or chemical treatment.
 - (d) The completed slopes of the banks of any excavation shall in no event exceed a minimum of three (3) feet to one (1) foot (three foot horizontal to one foot vertical).
 - (e) No cut or excavation shall be made closer than two hundred (200) feet from the centerline of the nearest road right-of-way nor closer than fifty (50) feet to the nearest property line. The Planning Commission may prescribe more strict requirements in order to give sub lateral support to surrounding property where soil or geologic conditions warrant it.
 - (f) The Planning Commission shall, to ensure strict compliance with Ordinance provisions and required conditions of a permit for quarrying, require the permittee to furnish a bond in an amount determined by the Planning Commission.
- D. Home Occupations.
 - (1) The home occupation must be conducted entirely within an existing building.
 - (2) The home occupation shall be clearly incidental and secondary to the use of the premises as a residence.
 - (3) No noise, odor, fire hazard, or traffic congestion shall be created beyond that which is normal in a residential area.

- (4) No outdoor storage or display of merchandise or materials shall be allowed.
- (5) There shall be no employees, other than family members who reside in the home on the property.

- E. Two family dwellings.
- F. State licensed residential facilities for seven or more residents.
- G. Group day-care homes which comply with statutory standards.
- H. Village and County governmental buildings, structures and facilities.
- I. Schools, churches, and cemeteries.
- J. Bed and breakfast establishments.
- K. Communications and wind electrical generation towers (subject to Section 13.12).

ARTICLE VI R Single-Family Residential District

Section 6.01. Principal Uses Permitted.

- A. Single-family dwellings (subject to Section 13.05).
- B. Crop production.
- C. Family day-care homes.
- D. State licensed residential facilities for six or fewer residents.
- E. Buildings, structures and uses which are accessory to any of the above-permitted uses. The keeping of livestock, poultry and rabbits shall not be allowed as accessory uses in residential zoning districts.

Section 6.02. SPECIAL LAND USES.

- A. Two-family dwellings located on parcels which are at least two (2) acres in size.
- B. Bed and breakfast establishments.
- C. State licensed residential facilities for seven or more residents.
- D. Boarding or rooming houses.
- E. Governmental buildings, structures, facilities, and parks.
- F. Schools, churches and cemeteries.
- G. Platted subdivisions which comply with the requirements of the Michigan Land Division Act.
- H. Site condominium developments. Single-family detached condominium developments, subject to the following requirements:
 - 1. Review. Pursuant to authority conferred by Section 141 of the Michigan Condominium Act, all Site Condominium Plans shall require final approval by the Planning Commission before site improvements may be initiated. The review process shall consist of the following two steps:
 - a. Preliminary Plan Review. In the preliminary review phase, the Planning Commission shall review the overall plan for the Site including basic road and unit configurations and the consistency of the plans with all applicable provisions of Village ordinances. Plans submitted for preliminary review shall include information specified in items a, b, and c of the submission requirements in subsection 2 below.
 - b. Final Plan Review. Upon receipt of preliminary plan approval, the applicant may prepare the appropriate engineering plans and apply for final approval by the Planning Commission. Final plans shall include information as required by items a-g of the submission requirements. Such plans shall have been submitted for review and comment to all applicable county and state agencies. Final Planning Commission approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on the plans.
 - 2. Submission Requirements. All Condominium Plans shall be submitted for review pursuant to the standards in Article XVI of this Ordinance (Site Plan Review) and Section 66 of the Michigan Condominium Act, and shall also include the following information:
 - a. A survey of the condominium subdivision site.
 - b. A plan delineating all natural features on the site including, but not limited to ponds, streams, lakes, drains, flood plains, wetlands and woodland areas .

- c. The location size, shape, area and width of all condominium units, and the location of all proposed streets.
 - d. A copy of the master deed and a copy of all restrictive covenants to be applied to the project.
 - e. A utility plan showing all sanitary sewer, water, and storm drainage improvements, plus any easements granted for installation, repair and maintenance of utilities.
 - f. A street construction, paving, and maintenance plan for all streets within the proposed Condominium Subdivision.
 - g. A storm drainage and storm water management plan, including all swales, drains, basins, and other facilities.
3. Zoning District Requirements. The development of all site condominium projects shall observe the applicable yard setback and minimum floor area requirements for structures within the zoning district within which the project is located. The dwelling unit density of the project shall be no greater and spacing no less than would be permitted if the parcel were subdivided into individual lots.
 4. Streets. All streets for a site condominium project shall conform to the Village of Fairgrove standards for subdivision streets. Dedication of public streets may be required by the Planning Commission.
 5. Utility Easements. The site condominium plan shall include all necessary easements for the purpose of constructing, operating, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities. Easements shall also be provided for any necessary storm water run-off across, through, and under the property, including excavating and maintenance of ditches and storm water retention areas.
 6. Engineering Reviews. Copies of an "as built" survey shall be provided to the Village demonstrating compliance with applicable Village ordinances.
- l. Home occupations (subject to the requirements of Section 5.02.D).

ARTICLE VII RM Multiple-Family Residential

Section 7.01. PRINCIPAL USES PERMITTED.

- A. Single-family and two-family dwellings (subject to Section 13.05).
- B. Crop production.
- C. Multiple-family dwellings.
- D. Family day-care homes.
- E. State licensed residential facilities for six or fewer residents.
- F. Buildings, structures and uses which are accessory to any of the above-permitted uses.

Section 7.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Bed and breakfast establishments.
- B. Boarding or rooming houses.
- C. State licensed residential facilities for seven or more residents.
- D. State licensed group day-care homes.
- E. Governmental buildings, structures, facilities, and parks.
- F. Schools, churches and cemeteries.
- G. Hospitals and convalescent homes.

ARTICLE VIII MHP Manufactured Housing Park

Section 8.01. PRINCIPAL USES PERMITTED.

- A. Manufactured housing parks which comply with the regulations of the Michigan Manufactured Housing Commission.

- B. Single family dwellings.
- C. Crop production.
- D. Family day-care homes.
- E. State licensed residential facilities for six or fewer residents.
- F. Buildings, structures and uses which are accessory to any of the above-permitted uses.

ARTICLE IX CBD Central Business District

Section 9.01. PRINCIPAL USES PERMITTED.

- A. Any retail business which sells or rents merchandise within a completely enclosed building.
- B. Personal service establishments such as restaurants, taverns, laundromats, barber shops, beauty shops, and dry cleaning establishments.
- C. e. Repair shops for consumer items such as watches, shoes, furniture and appliances.
- D. D Professional and business offices.
- E. Financial institutions.
- F. Funeral homes and mortuaries.
- G. Apartments, providing that the apartments are located on the second story of commercial buildings and provided that there are at least two (2) parking spaces provided on private property for each apartment.
- H. Hotels, motels, lodge halls, private clubs, auditoriums, and indoor recreational establishments.
- I. Schools, churches, and publicly-owned buildings or facilities.
- J. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 9.02. SPECIAL LAND USES.

- A. Open-air businesses such as drive-in theaters, fuel or propane sales, race tracks, used car sales, farm machinery sales, outdoor recreational facilities, or any retail business activities which are conducted entirely or partially outside of an enclosed building.
- B. Repair, service, or storage facilities for automobiles, trucks, construction equipment farm machinery, and similar equipment.
- C. Medical marijuana dispensaries provided that no such dispensary shall be located within five hundred (500) feet of any other marijuana dispensary. Such dispensaries may only be located in the CBD area.

ARTICLE X C-I Commercial-Industrial District

Section 10.01. PRINCIPAL USES PERMITTED.

- A. Factories engaged in manufacturing, assembling, machining, or other industrial production.
- B. Commercial retail sales.
- C. Truck terminals, railroad sidings and airports.
- D. Laboratories.
- E. Warehousing, storage, or wholesale facilities, including rental mini-storage facilities for personal property.
- F. Fuel storage facilities and fuel transfer facilities, including propane, petroleum, ethanol, and similar fuels.
- G. Buildings, structures, and uses which are accessory to any of the above permitted uses.

Section 10.02. SPECIAL LAND USES.

- A. Junk or salvage yards. Any such yard must be completely enclosed by a wall, berm, or fence at least eight (8) feet in height which completely obscures all material within the yard.
- B. Sewage treatment plants and similar facilities which comply with all regulations of the State of Michigan.
- C. Slaughter houses and meat processing facilities.
- D. Industries involving the processing, treatment, use or storage of explosives, toxic chemicals, or

radioactive materials.

- E. Communications and wind electrical generation towers (pursuant to Section 13.12).
- F. Adult book stores, adult motion picture theaters, adult novelty stores, massage parlors, cabarets, or similar establishments, subject to the requirements of this subsection,
 - 1. No two (2) uses listed in this subsection shall be located within one thousand (1,000) feet of each other.
 - 2. No use listed in this subsection shall be located within one thousand (1000) feet of any residential dwelling unit. This prohibition may be waived if the person applying for the waiver shall file with the Planning Commission a petition which indicates approval of the proposed use by fifty-one (51) percent of the persons owning property, residing or doing business within a radius of one thousand (1,000) feet of the location of the proposed use. The petitioner shall attempt to contact all eligible locations within this radius and must maintain a list of all addresses where no contact was made.
 - 3. No use listed in this subsection shall be located within one thousand (1,000) feet of any church, school, park, or Village hall.
 - 4. Such uses shall not be allowed in any other zoning district.

ARTICLE XA R-1 Residential Professional District

The Residential Professional District permits combined office, commercial and residential use, along Main Street, South of Shreeves Road and North of Slack Road; and M-138 part of Center Street excluding the areas that are zoned CBD, C-1, MHP and RM.

- A. Permitted Activities within R-1 are services with limited volume of vehicles, foot traffic, or clients. Zone includes professional activities, computer programming, internet based businesses, law firms, medical, consulting, seamstress, tailoring, educational, training, massage, acupuncture, or any commercial activities that **will not** create noise complaints, disruption in residential activity, devaluation of the surrounding residences, pollution, odors, or create a nuisance.
- B. Permitted activity in the R-1 Residential District is restricted to activities done within the confines of the structure.
- C. Prohibited activity would be any business that would discharge, or create an pollutant, industrial or hazardous waste as defined in the Natural Resources and Environmental Protection Act 451 of 1994.

ARTICLE XI Area, Setback and Height

Section 11.01. COMPLIANCE.

- A. All lots and structures shall comply with the area, setback, and height requirements of Section 11.02, unless different requirements are specified as a condition for a use permitted after special approval or pursuant to a variance.

Section 11.02. TABLE OF AREA, SETBACK AND HEIGHT REQUIREMENTS.

Zoning District	Minimum Lot Area Per Dwelling Unit or Commercial/Industrial Bldg.	Minimum Lot Width (In Feet) (1)	Minimum Front Yard Setback (In feet) (2)(9)	Minimum Side Yard Setback (In feet)	Minimum Rear Yard Setback (In feet)	Minimum Floor Area Per Dwelling Unit Or Commercial Bldg. (In Sq. ft.)(5)	Maximum Building Height (In feet)
AR	1 acre	150	80	20	30	1,300	35 (7)
R	10,000 sq. ft. (3)	75	50	10	10	960	35
RM	1 acre (8)	150	100	20	25	(6)	35
MHP	(4)	300	100	20	25	960	35

CBD	10,000 sq. ft.	50	None	25	25	600	35
C-I	1 acre	150	100	25	25	600	80

- 1) Measured at minimum front yard setback line.
- 2) Measured from center of road.
- 3) One acre if not served by a central sewer system.
- 4) Regulated by the Michigan Manufactured Housing Commission. Any land uses in the district other than manufactured housing parks shall meet the requirements of Section 11.02 for the R zoning district. The minimum site size for the park shall be 10 acres.
- 5) The minimum floor area per dwelling unit shall not include areas of basements, utility rooms, breezeways, porches, or attached garages.
- 6) The minimum floor area for a one-bedroom apartment is 600 square feet. A minimum of 100 additional square feet shall be required for each additional bedroom.
- 7) Up to one hundred (100) feet for agricultural structures.
- 8) In no event shall there be more than four (4) dwelling units per acre.
- 9) Front yard setback reductions may be granted by the Zoning Administrator if most of the dwellings within two hundred (200) feet are closer to the street than the ordinance requirement. In no event shall any reduction allow a dwelling closer to the street than the immediately adjacent dwellings.

ARTICLE XII Parking and Loading Requirements

Section 12.01. GENERAL PARKING REQUIREMENTS.

In all zoning districts, off-street parking facilities for the storage and parking of motor vehicles shall be provided as required below. The parking spaces shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of parking spaces are provided elsewhere.

- A. **MINIMUM PARKING SPACE SIZE.** Each parking space shall be at least ten (10) feet wide and twenty (20) feet long, exclusive of drives.
- B. **MINIMUM WIDTH OF ACCESS LANES IN PARKING AREAS.** The minimum width of access lanes for parking spaces shall be twenty-five (25) feet.
- C. **LOCATION OF PARKING SPACE.** The parking facilities shall be located on the same lot or within five hundred (500) feet of the permitted uses requiring the parking. Any business within the CBD may use public parking in lieu of providing parking on private property.
- D. **SEATING.** As used in this Article for parking requirements, a seat shall mean either an individual chair or each twenty-four (24) inches of seating facilities.
- E. **SIMILAR USES AND REQUIREMENTS.** In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is similar shall apply.
- F. **EXISTING OFF-STREET PARKING.** Off-street parking existing at the effective date of this Ordinance which serves an existing building or use shall not be reduced in size to less than that required under the terms of this Ordinance.
- G. **DRAINAGE.** All parking areas shall be drained so as to dispose of surface water which might accumulate within or upon such area. Drainage shall be provided to ditches, retention ponds or entirely on to the property on which the parking lot is located.
- H. **ILLUMINATION.** All illumination for such parking areas shall be deflected away from adjacent residential areas.
- I. **HARD SURFACING.** All required parking areas for commercial, industrial or institutional uses shall be surfaced with a pavement having an asphalt or concrete binder or with compacted limestone. .

Section 12.02. TABLE OF PARKING REQUIREMENTS.

The amount of required off-street parking space for new uses of land, buildings, or additions shall be

determined in accordance with the following table

USE	Required Number Use Of Parking Spaces	
A. Auditoriums, Assembly Halls, Theaters, and Churches	1	Two seats based upon maximum seating capacity in the main place of assembly therein, plus one space for each employee.
B. Automobile Service Stations	2	Each gasoline pump and lubrication stall
C. Banks and Business or Professional Office of Doctors, Lawyers, Architects, Engineers, or other similar professions	1	Two hundred (200) square feet of usable floor area.
D. Barber Shops and Beauty Parlors	2	Each barber or beauty operator.
E. Drive-In Restaurants	1	Twenty-five square feet of usable floor area, with a maximum of forty parking spaces.
F. Golf Courses	1	Each two employees plus one space for every five hundred square feet of usable floor area in the club house, plus a minimum of ten parking spaces per hole on the golf course.
G. Industrial Establishments and Warehouse Facilities	1	Each employee computed on the basis of the greatest number of persons employed at any period during the day.
H. Residential dwellings	2	Each dwelling unit.
I. Restaurants or similar establishments in which is conducted the sale and consumption on the premises of beverages, food or refreshments. This shall include private clubs, lodges, and recreational facilities	1	One for each two persons at maximum seating capacity, plus one space for each employee.
J. Retail stores and service establishments other than those specified herein Per Each Unit of Measure as Follows:	1	One hundred and fifty square feet of usable floor area, plus one space for each employee
K. Sanitariums, convalescent homes, hospitals, hotels, and similar establishments	1	Two beds.
L. Service garages, auto salesrooms, auto repair, collision or bumping shops, car wash establishments	1	Two hundred square feet of usable floor area, plus one space for each employee on the basis of the maximum number of employees on duty at anyone time, plus two spaces for each auto serviced.
M. Repair establishments for appliances, household items,	1	Three hundred square feet of usable floor area plus one space for each employee.

glass, and similar items; lawn and garden establishments		
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For purposes of this section, "usable floor area" shall mean the floor area open to the public for customer, office, or retail use. This excludes areas such as bathrooms, warehousing areas, and mechanical rooms.

Section 12.03. OFF-STREET LOADING REQUIREMENTS.

On the same property with every building or structure used for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hospital, mortuary, laundry, dry cleaning, or other uses involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for loading and unloading. All such loading and unloading areas shall be paved with a pavement having an asphalt or concrete binder.

Such loading and unloading space, unless adequately provided for within a building, shall be an area at least 10 feet by 30 feet, with minimum 14 foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area (Square Feet)	Loading Spaces Required
0-2,000	None
2,000 -20,000	One space
Over 20,000	One space for each 20,000 square feet.

ARTICLE XIII General Provisions

Section 13.01. CONFLICTING REGULATIONS.

Whenever any provisions of this Ordinance impose more stringent requirements than are imposed by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.

Section 13.02. STREETFRONTAGE.

Every dwelling or other building shall be located on a parcel of land which shall have frontage on a public street or on a private driveway easement which serves a maximum of three (3) dwellings. All such easements shall be at least sixty-six feet in width, shall have sufficient gravel or hard surfacing to support emergency vehicles, and shall have a recorded maintenance agreement.

Section 13.03. DEPTH TO WIDTH RATIO.

No property shall be divided in such a manner that the length or depth of any resulting parcel exceeds four (4) times the width of that parcel.

Section 13.04. RESIDENTIAL OCCUPANCY OTHER THAN IN COMPLETED DWELLINGS.

Garages, barns, pole barns, accessory buildings, and basements shall not be occupied as dwellings. However, the Zoning Administrator may grant temporary occupancy pursuant to Section 13.09.

Section 13.05. SINGLE-FAMILY AND TWO-FAMILY DWELLING REQUIREMENTS.

Any single-family or two-family dwelling shall comply with the following minimum standards:

- A. **MINIMUM SIZE.** Each dwelling shall contain the minimum number of square feet specified in Section 11.02, prior to any alterations or additions.
- B. **MINIMUM WIDTH.** Each dwelling shall be no less than twenty-four (24) feet in width in all directions, prior to any additions or alterations.
- C. **FOUNDATION.** Each dwelling shall be provided with foundation support in the form of a perimeter masonry or treated wood foundation or cement pillars pursuant to the specifications of the building inspector. Skirting consisting of brick, concrete blocks, wood, vinyl or aluminum shall be constructed completely

around the lower edge of any dwelling utilizing pillars for a foundation. Each dwelling shall be securely anchored to the foundation.

- D. ROOF. Each dwelling shall have a roof with no less than a 4-12 pitch. In the case of manufactured or modular homes, the roof shall be part of the original manufacture of the unit prior to being brought into the Village.
- E. STORAGE FACILITIES. Each dwelling shall have either a basement, garage or storage building containing at least one hundred twenty (120) square feet of storage area. The storage facility shall be constructed at the same time as the dwelling.
- F. CONSTRUCTION CODE. Each dwelling and dwelling addition shall comply with building code requirements in effect at the time the dwelling is constructed or moved within the Village.

Section 13.06. SIGNS.

All signs shall comply with the requirements of this section.

- A. The following signs may be erected in the Village without prior Planning Commission approval, provided the other requirements of this section are complied with:
 - 1. Signs advertising real estate for sale or rent. Such signs may not exceed nine (9) square feet in sign area.
 - 2. Signs advertising agricultural produce grown on the premises. Such signs may not exceed nine (9) square feet in sign area and shall be posted only during the time that produce is available for sale.
 - 3. Signs advertising personal property owned by a resident of the premises; provided such personal property was not purchased for the purpose of resale. Such signs may not exceed nine (9) square feet in sign area.
 - 4. Signs advertising home occupations which have received approval pursuant to the Zoning Ordinance. Such signs may not exceed nine (9) square feet in sign area.
 - 5. Signs promoting political candidates or election issues. Such signs may not exceed sixteen (16) square feet in sign area. Such signs shall not be erected more than sixty (60) days prior to an election and shall be removed within ten (10) days after the election.
 - 6. Signs stating the name and/or address of a property owner. Homeowner signs may not exceed four (4) square feet in sign area. Farm owner signs may not exceed thirty-two (32) square feet in sign area.
 - 7. Temporary signs advertising non-commercial public event for not to exceed sixty (60) days. Such signs shall not exceed thirty-two (32) square feet in sign area.
- B. A sign site plan shall be approved by the Village Planning Commission before any sign is erected, constructed, or altered, except for signs permitted by subsection A above.
- C. The Planning Commission shall review each site plan as to location, height, aesthetics, compatibility with the surrounding buildings and facilities, and compliance with Village ordinances. The Planning Commission may require revisions to the sign site plan.
- D. No signs shall be erected in the street right-of-way or at any location where they might interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal, or device. No rotating beam, beacon, or flashing illumination resembling an emergency light shall be used in connection with any sign.
- E. ELECTRONIC MESSAGE DISPLAY – A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means, including animated graphics and/or video. Electronic Message Displays may be permitted, with the approval of a use permit, in the R-1, CBD and C-1 zoning districts.
- F. No sign shall rotate nor contain any moving parts.
- G. All signs shall be set back from all property lines no less than the minimum distance required by the Zoning Ordinance for buildings and structures and from all road right of way lines at least ten (10) feet.
- H. All signs shall be maintained so that they comply continuously with all requirements of this Ordinance and are kept in a good state of repair.
- I. On-Site Signs.
 - 1. One principal sign shall be permitted on the site of each commercial, industrial, or institutional facility.

2. Principal on-site signs shall not exceed sixty-four (64) square feet in sign area.
 3. No more than two secondary signs shall be permitted on the site of each commercial, industrial, or institutional facility.
 4. Secondary on-site signs shall not exceed sixteen (16) square feet in sign area. .
- J. Off-Site Signs (Billboards).
1. Off-site signs may only be located on parcels of land which are zoned for commercial or industrial use.
 2. Off-site signs shall not exceed forty (40) square feet in sign area.
 3. No off-site sign shall be erected within three hundred (300) feet of any other offsite or on-site sign.

Section 13.07. PONDS.

Ponds shall be dug only in the AR district and shall not be located within any front, side or rear setback required by this Ordinance.

Section 13.08. GREENBELTS.

- A. In all zoning districts, no area within the required front yard setbacks shall be used for any permanent or temporary structures other than signs permitted by village ordinances. Said front yard setback areas shall be planted and continuously maintained with grass, shrubs, or landscaping materials, except for the portion developed for use as a parking area or driveway.
- B. Whenever any property is developed for any use other than agricultural or single-family residential, and the property borders any property zoned for single-family residential use, a greenbelt at least ten (10) feet in width along said borders shall be planted and maintained.
- C. Detailed landscaping plans for all greenbelts shall be provided on the site plan relating to the development and shall be considered as a material part of the site plan. No construction project shall be deemed to be completed until all landscaping features required on the site plan have been planted or installed.
- D. The Planning Commission shall review and approve the type of plantings required to provide a satisfactory greenbelt in any specific situation.

Section 13.09. TEMPORARY DWELLINGS.

- A. The Zoning Administrator may issue a permit for a temporary manufactured home or other structure to be occupied for up to one (1) year during the time that a permanent dwelling is being constructed. A temporary dwelling does not have to comply with the single family dwelling standards contained in Section 13.05. A temporary dwelling permit may be issued if the following requirements are complied with:
 1. A building permit for the permanent dwelling must be acquired before the temporary dwelling is placed on the premises or occupied.
 2. The permanent dwelling must be completed and any temporary manufactured home removed from the property before the expiration of the temporary dwelling permit. In the case of garages or other structures, the improvements which make the structure usable as a dwelling must be removed.
 3. The applicant must execute an affidavit guaranteeing that any temporary manufactured home will be removed from the premises at the expiration of the permit period. In the case of garages and other structures, the affidavit must guarantee that the improvements which make the structure usable as a dwelling unit will be removed.
 4. A temporary dwelling permit may be renewed one time by the Zoning Administrator for up to one (1) additional year for completion of the permanent dwelling, providing reasonable progress has been made on construction of the permanent dwelling during the first one (1) year permit period.
 5. A performance bond, letter of credit or cash deposit shall be posted with the Village Treasurer to guarantee removal of the temporary dwelling. The funds shall be released to the applicant upon verification of removal of the temporary dwelling.
- B. Variances to permit the temporary occupancy of manufactured homes which do not comply with the single-family dwelling standards of Section 13:05 may be granted by the Zoning Board of Appeals

pursuant to the procedures contained in Article XVIII. Such variances may only be granted for the purpose of housing family members who are unable to reside elsewhere due to age, poor health, or indigence. Any manufactured home approved under this section may not be over fifteen (15) years old at the time it is placed on the site. Any manufactured home approved pursuant to this section shall be placed on a reinforced concrete pad or concrete piers and provided with adequate tie downs and skirting. In the event that the temporary manufactured home ceases to be used for the specific purpose for which it was granted, the manufactured home shall be removed from the property within thirty (30) days of the date it ceases to be used for the purpose for which it was granted. A bond guaranteeing the removal of the temporary dwelling shall be posted with the Village in an amount set by motion of the Village Council.

Section 13.10. ONE DWELLING PER PARCEL.

No more than one (1) single-family dwelling may be constructed or placed on a single parcel of land.

Section 13.11. PROHIBITED STRUCTURES.

No bus, camper, mobile home, manufactured home, semi-trailer, truck body or other motor vehicle body or similar item shall be placed on any property for use as a storage structure or other building purpose. This section shall not apply to manufactured homes which comply with Sections 13.05 or 13.09 and are used as single-family dwellings. This section shall also not apply to semi-trailers that are currently licensed for highway use and have a current Department of Transportation sticker.

Section 13.12. PUBLIC SERVICE FACILITIES, COMMUNICATION TOWERS, AND WIND ELECTRICAL GENERATION TOWERS.

- A. Certain facilities provided by utility companies or by the Village government shall be permitted in all zoning districts. Facilities permitted by this section shall include transmission lines, sewer lines, water mains, pumping stations, substations, poles, and related equipment. Any equipment enclosures, substations or similar structures shall be subject to the site plan review requirements of Article XVI. Any office, warehouse, manufacturing, or sales buildings must be located in the Commercial or Industrial zoning district.
- B. Communication antennas, wind generation towers, windmills, and related facilities belonging to farmers or homeowners and used for noncommercial purposes shall be exempt from the requirements of this section and shall be allowed as a permitted use in all residential zoning districts, providing that the antenna, windmill or related facilities do not exceed eighty (80) feet in height. This shall also include equipment used by ham radio operators, as well as residential television and radio antennas.
- C. All communication towers, including transmission towers, relay or receiving antennas, and normal accessory facilities involved in telephone, television, radio, microwave, cable systems, cellular, and similar communication services, may be allowed as special land uses in all zoning districts, pursuant to Article XVII, subject to the following requirements:
 1. The Applicant shall submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event.
 2. The minimum setback from any property line or road right-of-way shall be equal to the height of the tower
 3. The tower or antenna shall not be unreasonably injurious to the safety, aesthetics, or market value of nearby properties.
 4. All towers and related equipment shall be designed to be as compatible and harmonious as possible in style and building materials to the surrounding area. Any electrical, telephone or other utility lines to the tower site shall be placed underground.
 5. All tower bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least six (6)

- feet in height. The site shall be maintained in a neat manner.
6. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the Village, co-location, or the provision of more than one antenna and more than one user on a single tower at a single location, shall be strongly encouraged. Before approval is granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.
 7. Co-location shall be deemed to be "feasible" for the purposes of this section, where all of the following are met:
 - a. The site on which co-location is being considered, including reasonable modification or replacement of a facility, is able to provide structural support.
 - b. The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - c. Existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - d. The fees, costs or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presumed to be unreasonable.
 8. Applications receiving approval for a tower shall agree to allow co-location on the tower for reasonable market compensation as long as the conditions described in subsections C.7. (a)(b)(c) and (d) are met.
 9. A condition of every approval of a communication tower shall be adequate provision for the removal of the facility whenever it ceases to be used for one year or more. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Zoning Administrator. Removal of the tower and its accessory use facilities shall include removing the top three (3) feet of the caisson upon which the tower is located. This area shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.
 10. To ensure proper removal of the tower when it is abandoned, any application for a new tower shall include a description of the financial security guaranteeing removal of the tower which will be posted at the time of receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; or 3) performance bond in a form approved by the Village. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Village. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Village in securing removal.
- D. Wind electrical generation towers and electrical generation windmills, other than those exempted under subsection B, are allowed as special land uses in all zoning districts, pursuant to Article XVII and the following requirements:
1. The applicant shall submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event.
 2. The minimum setback from any property line or road right-of-way shall be equal to the height of the tower.
 3. The tower shall not be unreasonably injurious to the safety, aesthetics, or market value of nearby properties.
 4. All tower bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least six (6) feet in height. The site shall be maintained in a neat manner.
 5. The towers, windmills, and related equipment shall comply with all current guidelines published by

- the Energy Office of the State of Michigan or its successor agency.
6. A condition of every approval of a communication tower shall be adequate provision for the removal of the facility whenever it ceases to be used for one year or more. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Zoning Administrator. Removal of the tower and its accessory use facilities shall include removing the caisson upon which the tower is located to a depth which is at least three (3) feet below the natural surface of the ground. This area shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.
 7. To ensure proper removal of the tower when it is abandoned, any application for a new tower shall include a description of the financial security guaranteeing removal of the tower which will be posted at the time of receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; or 3) performance bond in a form approved by the Village. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Village. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Village in securing removal.

Section 13.13. YARD SALES.

No person shall operate or permit to be operated on his property any yard sale, except in compliance with the following requirements:

- A. No yard sale shall be conducted for more than four (4) days.
- B. No more than four (4) yard sales may be held during any calendar year.
- C. Any temporary signs advertising the yard sale shall be removed within twenty four (24) hours after the completion of the yard sale.
- D. For purposes of this Ordinance, the term "yard sale" shall mean any offering for sale of personal property in an area zoned for residential use. The term "yard sale" shall include sales commonly known as "garage sales", "porch sales", "basement sales", and similar operations. The offering for sale of a single item only, such as an automobile or a boat, shall not be considered a "yard sale". Any sales which are conducted as part of a permanent business enterprise on property zoned for industrial or commercial use shall not be considered to be "yard sales" covered by this Ordinance.

Section 13.14. MOVING OF BUILDINGS, MANUFACTURED HOMES, AND OTHER STRUCTURES.

- A. No building, manufactured home, or other structure shall be moved into or within the Village unless a Zoning Compliance Permit has been issued by the Zoning Administrator prior to the moving of the building, manufactured home, or structure.
- B. In the case of new manufactured homes, the Zoning Administrator shall be provided with verification that the manufactured home was constructed pursuant to current standards of the U.S. Department of Housing and Urban Development. In the case of new modular homes, the Zoning Administrator shall be provided with verification that the modular homes were constructed in compliance with the BOCA Code or the Michigan Construction Code.
- C. In all other cases (buildings, structures, or used manufactured homes), the Zoning Administrator shall be provided with a Certificate of Code Compliance pursuant to an inspection conducted by a registered Building Inspector approved by the Village. Any Code deficiencies identified by the Inspector must either be corrected prior to the building, structure, or used manufactured home being brought into the Village or else the applicant must post a performance bond, bank letter of credit or a cash deposit with the Village Treasurer in an amount sufficient to cover all required repairs.
- D. The applicant shall be responsible for compensating the registered Building Inspector for all required inspections.

Section 13.15. RECREATIONAL VEHICLE PARKING AND STORAGE.

- A. For purposes of this section, recreational vehicles shall be deemed to include motor homes, camping

trailers, pickup campers, camping vans, buses, cargo trailers, or other units either designed or used for human occupancy and which do not meet the single family dwelling standards of Section 13.05.

- B. Recreational vehicles (not including mobile homes) may be parked or stored on property containing an occupied single-family dwelling, provided that the number is limited to not more than two (2) recreational vehicles. All such recreational vehicles shall be currently licensed.

Section 13.16. ACCESSORY BUILDINGS.

Accessory buildings may be constructed prior to the main building. Any such accessory buildings shall be located so as to allow for the later construction of a main building in full compliance with all setbacks and other regulations. In no event shall an accessory building be constructed any closer to the road than the dwelling.

Section 13.17. FENCES.

All fences (including walls and other enclosures) shall comply with the following requirements:

- A. All fences shall be placed within the boundaries of the property owner unless a written agreement is obtained with the adjacent owner allowing construction of the fence on the shared property line.
- B. No fence shall be placed within any public right-of-way.
- C. Fences located within front yards in residential zoning districts shall not exceed three (3) feet in height. Fences located in rear and side yards in such districts shall not exceed six (6) feet in height.
- D. Barbed wire or electric fences may only be placed in the AR zoning district for the control of livestock. Barbed wire cradles on chain link fences may be used in the C-I district or for public utility facilities.
- E. Fences shall only be constructed with standard fence material and shall be constructed with the finished side facing toward adjacent properties. No pallets, tires, cast-off materials or deteriorated materials shall be used for fence purposes.

ARTICLE XIV Non-conforming Lots, Uses, and Structures

Section 14.01. CONTINUED NON-CONFORMING USES PERMITTED.

Within the districts established by this Ordinance there exist lots structures and uses of land and structures, which were lawful prior to the adoption of this Ordinance. These non-conformities may continue until they are removed. The non-conformities shall not be enlarged upon, expanded or extended in any manner which increases their non-conformity,

Section 14.02. NON-CONFORMING LOTS OF RECORD.

A single-family dwelling and customary accessory buildings may be erected on any lot of record at the effective date of adoption of this Ordinance, provided the width, depth, and area is not less than two-thirds (2/3) of that required by this Ordinance. Permission to build on smaller recorded lots which lack adequate width, depth, or area, may be granted by the Zoning Board of Appeals as long as reasonable living standards can be provided.

Section 14.03. NON-CONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in anyway which increases its non-conformity.
- B. Should such non-conforming structure be destroyed by any means to an extent of more than seventy-five (75%) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

- C. Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 14.04. NON-CONFORMING USES OF LAND OR STRUCTURES.

Where at the time of passage of this Ordinance lawful use of land or structures exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or additional structures than that occupied at the effective date of adoption or amendment of this Ordinance.
- B. If any such non-conforming use ceases for any reason for a period of more than twelve (12) months any subsequent use shall conform to the regulations specified by this Ordinance.
- C. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.
- D. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

ARTICLE XV Planning Commission

Section 15.01. ESTABLISHED.

The Fairgrove Village Planning Commission has been established as authorized by the Michigan Planning Enabling Act of 2008 and the Fairgrove Village Planning Commission Ordinance.

Section 15.02. POWERS.

The Planning Commission shall have the power to review and approve site plans pursuant to Article 16 of this Ordinance, to hear and decide requests for special land use pursuant to Article 17 of this Ordinance, and to hear and make recommendations on zoning amendment requests pursuant to Articles 19 and 20 of this Ordinance.

The applicant shall submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event.

1. The minimum setback from any property line or road right-of-way shall be equal to the height of the tower.
2. The tower or antenna shall not be unreasonably injurious to the safety, aesthetics, or market value of nearby properties.
3. All towers and related equipment shall be designed to be as compatible and harmonious as possible in style and building materials to the surrounding area. Any electrical, telephone or other utility lines to the tower site shall be placed underground.
4. All tower bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least six (6) feet in height. The site shall be maintained in a neat manner.
5. In order to maximize the efficiency of the provision of telephone communication services, while also minimizing the impact of such facilities on the Village, co-location, or the provision of more than one antenna and more than one user on a single tower at a single location, shall be strongly encouraged.
6. Before approval is granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.
7. Co-location shall be deemed to be "feasible" for the purposes of this section, where all of the following are met:
 - a. The site on which co-location is being considered, including reasonable modification or

- replacement of a facility, is able to provide structural support.
- b. The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - c. Existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
 - d. The fees, costs or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presumed to be unreasonable.
8. Applicants receiving approval for a tower shall agree to allow co-location on the tower for reasonable market compensation as long as the conditions described in subsections C.7. (a)(b)(c) and (d) are met.

ARTICLE XVI Site Plan Review Requirements

Section 16.01. SCOPE.

A site plan shall be prepared and submitted for every construction project and every proposed change in land use, except that no site plan shall be required for single-family residences, farm buildings, or buildings which are accessory to single-family residences.

Section 16.02. PROCEDURE.

All site plans shall be submitted first to the Zoning Administrator, who shall review the plans for compliance with the requirements of the Zoning Ordinance. The Zoning Administrator shall then refer the site plan to the Planning Commission for review and decision. Once a site plan is approved by the Planning Commission, it shall not be altered without the consent of the Planning Commission.

Section 16.03. CONTENT.

Each site plan shall include the following:

- A. Area of the site
- B. Date, North point, and scale
- C. Dimensions of all property lines
- D. Location and dimensions of all existing and proposed structures on the property or on adjacent properties within one hundred (100) feet of the property lines.
- E. Location and dimensions of all existing and proposed roads (including rights-of-way), driveways, sidewalks, and parking areas (see Article XII).
- F. Location of all existing and proposed utility lines, wells, septic systems, and storm drainage.
- G. Location, dimensions and details of proposed plantings, greenbelts and landscaped areas (see Section 13.08).
- H. Exterior drawings of proposed new buildings or existing buildings to which major additions are proposed.
- I. Location, dimensions, and drawings of existing and proposed signs (see Section 13.06).
- J. Name, address, and telephone number of the person who prepared the site plan.

Section 16.04. STANDARDS.

In determining whether to approve, modify, or deny a site plan, the Planning Commission shall consider the following:

- A. Adequacy of traffic ingress, egress, circulations, and parking.
- B. Adequacy of landscaping to protect adjoining properties and enhance the environment of the community.
- C. Location and design of proposed structures so as to ensure that detrimental effects on adjacent properties will be minimized.

- D. Adequacy of storm drainage.
- E. Location and design of signs so as to prevent highway visibility obstructions, driver distractions, encroachments, and adverse impacts on the community environment.

Section 16.05. BOND.

A cash deposit shall be posted with the Village as a guarantee that the project will be completed in accordance with the approved site plan. Upon the completion of the project in accordance with the approved site plan, the bond shall be released. The amount of the bond shall be five (5%) percent of the project cost, but in no case shall the bond amount be less than One Thousand (\$1,000.00) Dollars.

Section 16.06. TIME FOR COMPLETION.

Each site plan shall be fully complied with and all construction completed within one (1) year of the date the building permit is issued. Site plan approval shall expire two (2) years from the date the Planning Commission granted initial approval, unless the site plan has been fully completed or unless an extension has been granted by the Planning Commission.

ARTICLE XVII Procedures For Special Land Use Approval By Planning Commission

Section 17.01. APPLICATION.

For all special land uses, a written application shall be submitted to the Planning Commission. Such application shall contain a description of the proposed use, a legal description and street location of the property on which the proposed use would be located, the signature of the property owner, the signature of the petitioner (if different from the property owner), and a scale drawing of the site. The scale drawing shall show existing and proposed buildings, driveways, points of ingress and egress, parking areas, fencing, landscaping, signs and road right-of-ways.

Section 17.02. HEARING.

Requests for special land uses may be heard and decided at any regular or special meeting of the Planning Commission, provided the petitioner has presented all required information and proper notice has been given. Notices of public hearing on special land uses shall be sent to the person requesting the special approval, the owner of the property which is the subject of the request, and to owners and occupants of property within a minimum of three hundred (300) feet from the property lines of the property which is the subject of the request. Notice shall be given to property owners as shown on the latest tax assessment roll. A notice shall be published once in a newspaper of general circulation. All notices shall be published, mailed or personally delivered not less than fifteen (15) days prior to the hearing date.

Section 17.03. STANDARDS.

Requests for special land uses shall be granted or denied based on the following standards:

- A. The location, size and character of the proposed use shall be in harmony with, and appropriate to the surrounding neighborhood.
- B. The proposed use shall not result in the creation of a hazardous traffic condition.
- C. The site layout, intensity of use, and time periods of use shall not be such as to create a nuisance due to dust, noise, smell, vibration, smoke, or lighting.
- D. All specific requirements of the zoning district where the proposed use would be located shall be complied with.

Section 17.04. DECISION.

The Planning Commission may deny, approve, or approve with conditions any request for a special land use. The decision of the Planning Commission shall be incorporated in a statement containing the findings

and conclusions on which the decision is based and any conditions imposed. Any condition 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 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 ensure compliance with those standards.

Section 17.05. EXPIRATION.

Planning Commission permission for a special land use shall expire one (1) year from the date of the meeting at which permission is granted unless the premises has actually been occupied by the use permitted or unless construction has been undertaken to prepare the premises for the use permitted within the one-year period.

ARTICLE XVIII Zoning Board Of Appeals

Section 18.01. MEMBERSHIP.

There is hereby established a Zoning Board Of Appeals. The Zoning Board Of Appeals shall consist of five (5) members appointed by the Village Council. One member shall be a member of the Village Council. One member shall be a member of the Planning Commission. The remaining members shall be electors who are not employees or contractors of the Village. Each member shall be appointed for a term of three (3) years, except that the term of office of the members who are also members of the Village Council or Planning Commission shall terminate if their membership on the Village Council or Planning Commission terminates before the end of the three-year term. The Village Council may also appoint two (2) alternate members to three (3) year terms to serve whenever a regular member is unable to participate. The Zoning Board Of Appeals shall elect a Chairman, Vice-Chairman, and Secretary. The Village Council member may not serve as Chairman.

Section 18.02. APPEALS.

An appeal may be taken to the Zoning Board Of Appeals by any person wishing to appeal for a variance from any ordinance provision or appeal any final decision of the Zoning Administrator or the Planning Commission, including special land use decisions. The Zoning Board Of Appeals shall also interpret the zoning map and rule on non-conforming uses and structures whenever the determination of the Zoning Administrator is appealed. All appeals must be applied for in writing on forms provided by the Village. The Zoning Board Of Appeals shall give notice of the hearing to the parties involved. The Zoning Board Of Appeals shall publish a notice of public hearing in a newspaper of general circulation and shall give notice to owners and occupants of property within a minimum of three hundred (300) feet from the property lines of the property which is the subject of the appeal. Notice shall be given to property owners as shown on the latest tax assessment roll. All notices shall be published, mailed or personally delivered at least fifteen (15) days prior to the hearing date.

Section 18.03. ~AUTHORITY TO GRANT VARIANCES.

The Zoning Board Of Appeals shall have the authority to grant both use variances and non-use variances. Non-use variances may be granted whenever there can be shown to be practical difficulties in carrying out the strict letter of the Ordinance. Use variances may be granted whenever there can be shown to be unnecessary hardships imposed on the property owner if the strict letter of the Ordinance is carried out.

Section 18.04. DECISIONS.

The Zoning Board Of Appeals may require the appellant to provide such additional information as is

necessary to make a decision. In making a decision, the Zoning Board Of Appeals may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance. The Zoning Board Of Appeals shall decide appeals in such a manner that the spirit of the Ordinance is observed, public safety secured and substantial justice done. The Zoning Board Of Appeals shall state findings and the ground; for each decision. Any conditions imposed by the Zoning Board Of Appeals shall meet 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 ensure compliance with those standards.

Section 18.05. QUORUM REQUIREMENTS.

The Zoning Board of Appeals may only conduct business if a majority of the regular members are present.

Section 18.06. EXPIRATION OF VARIANCE APPROVALS.

Any variance shall expire one (1) year from the date it is granted unless use of the property has begun or construction has been undertaken pursuant to the variance.

ARTICLE XIX Amendments and Rezoning

Section 19.01. APPLICATION.

The Village Council may, after a public hearing by the Village Planning Commission, amend the regulations or the district boundaries of this Ordinance pursuant to the authority and according to the procedure set forth in the Michigan Zoning Enabling Act. Proposed amendments to the regulations or district boundaries of the Ordinance may be initiated by the Village Planning Commission, the Village Council or an individual petitioner. Whenever an individual petitioner requests a zoning amendment, he shall be the fee owner of the premises concerned or else have the fee owner also subscribe to his petition. A petition for rezoning shall be submitted to the Village Clerk along with a rezoning fee, as established by the Village Council.

Section 19.02. NOTICE OF HEARING.

Notice of a Planning Commission public hearing for a zoning amendment or a rezoning of property shall be published in a newspaper of general circulation in the Village for each proposed amendment to the regulations or district boundaries. If property is proposed to be rezoned, notice shall also be delivered personally or by mail to the owner of the property proposed for rezoning and the owners and occupants of all property within three hundred (300) feet of the property proposed to be rezoned. The notices shall be published, mailed or personally delivered no less than fifteen (15) days before the hearing date.

Section 19.03. PLANNING COMMISSION HEARING AND RECOMMENDATIONS

After conducting the required public hearing, the Village Planning Commission shall adopt recommendations as to the approval or denial of the proposed rezoning of property or amendment to the Ordinance regulations. Upon completion of action by the Village Planning Commission, the proposed rezoning or amendment shall be submitted to the Village Council for consideration.

Section 19.04. VILLAGE COUNCIL.

Upon receipt of the recommendations of the Village Planning Commission, the Village Council shall undertake consideration of the proposed rezoning or amendment. Any decision by the Village Council

which results in the rezoning of property or the amendment of the Ordinance shall be incorporated in ordinance duly adopted and published by the Village Council.

ARTICLE XX Voluntary Rezoning Agreements

Section 20.01. AUTHORITY.

The Village Council may, after a public hearing by the Village Planning Commission, enter into an agreement with a property owner to rezone property pursuant to the authority contained in Michigan Compiled Law Section 125.584.g. being part of the City-Village Zoning Act.

Section 20.02. APPLICATION.

Any offer to enter into a rezoning agreement shall be submitted to the Village Clerk along with a rezoning agreement fee, in an amount established by the Village Council. Whenever a petitioner offers to enter into a rezoning agreement, the person shall be the fee owner of the premises concerned or else have the fee owner subscribe to the offer. Proposed rezoning agreements may only be initiated by a property owner and not by the Village.

Section 20.03. PLANNING COMMISSION HEARING AND RECOMMENDATION.

After conducting a public hearing, the Village Planning Commission shall adopt recommendations as to the approval, approval with revisions, or denial of a proposed rezoning agreement. All procedural requirements for a rezoning, as contained in Article XIX, shall be complied with.

Section 20.04. VILLAGE COUNCIL.

Upon receipt of the recommendations of the Village Planning Commission, the Village Council shall undertake consideration of the proposed rezoning agreement. Any decision by the Village Council which results in a rezoning agreement shall be incorporated in a written document duly executed by the Village Council and the property owner. Any such agreement shall be recorded with the Register of Deeds and shall run with the land.

Section 20.05. STANDARDS FOR DECISION.

In deciding whether or not to approve a proposed rezoning agreement, the Planning Commission and the Village Council shall base their decisions on the following factors:

- A. The terms of the offer must be reasonably related to the property covered in the agreement.
- B. The proposed land use must be designed in such a way as to be compatible with surrounding land uses.
- C. The proposed land use must be consistent with the goals and policies of the Village.

Section 20.06. LIMITATIONS ON AGREEMENTS.

A rezoning agreement shall not be used to allow anything that would not otherwise be permitted in the proposed new zoning district. Any proposed variations from district requirements such as density, permitted uses, or lot size, shall only be granted by the Zoning Board of Appeals pursuant to the variance standards contained in Article XVIII. Any agreement shall include a specific time period during which the terms of the agreement must be completed.

Section 20.07. ZONING REVERSION.

In the event that the terms of a zoning agreement are not fulfilled within the time specified in the agreement, the Village Council shall initiate a proposed rezoning to revert the property back to the original classification.

ARTICLE XXI Violations

Section 21.01. ENFORCEMENT AND PENALTY.

Any person, firm or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in the Fairgrove Village Civil Infraction Ordinance.

Section 21.02. NUISANCE PER SE.

Any building or structure which is used, erected, altered, razed, or converted or any use of any premises which is begun or changed and in violation of any provision of this Ordinance, is hereby declared to be a nuisance per se.

ARTICLE XXII Definitions

Section 22.01. DEFINITIONS.

For the purpose of this Ordinance, certain terms are herewith defined. Terms not herein defined shall have the meanings customarily assigned to them.

ACCESSORY BUILDING. A building related to and secondary to the main use of the premises.

ACCESSORY USE. A use naturally and normally incidental and subordinate to the main use of the premises.

ADULT BOOK OR NOVELTY STORES. An establishment having a substantial or significant portion of its stock in trade, books, magazines, and other items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", or an establishment with a segment or section devoted to the sale or display of such material or items.

ADULT MOTION PICTURE THEATRE. A building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons.

ALTERATIONS. Any change, addition or modification in construction of the structural members of a building, such as walls, partitions, columns, beams, or girders.

BOARD OF APPEALS. The duly appointed Zoning Board of Appeals for the Village of Fairgrove.

BUILDING. A structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support of enclosure of persons, animals, or personal property. This shall include vehicles, trailers, or manufactured homes situated on private property and used for purposes of a building.

CABARET. An establishment which permits topless and/or bottomless dancers, strippers, exotic dancers, or similar entertainers.

DWELLING, DUPLEX OR TWO-FAMILY. A building used or designed as a residence for two (2) families.

DWELLING, MULTIPLE-FAMILY. A building used or designed as a residence for three (3) or more families.

DWELLING, SINGLE-FAMILY. A building used or designed exclusively as a residence for one (1) family.

DWELLING UNIT. Any house, building, manufactured home, or portion thereof which is designed for or occupied as a residence or sleeping quarters for a person, persons, or family as a single unit.

ERECTED. The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required to construct a building. Excavations, fill, or drainage relating to the construction or placement of a structure shall be considered a part of erecting.

EXCAVATING. The removal of sand, stone, gravel or dirt from its natural location.

FAMILY. One (1) adult, or an adult couple, with their direct lineal descendants, adopted children, step-children or foster children, with not more than two (2) additional unrelated persons, living together as a single housekeeping unit. In no event shall the occupancy exceed two (2) persons per bedroom.

FAMILY DAY-CARE HOME. A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day-care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.

FARM. All of the associated land, operated as a single unit on which bona fide farming is carried on, including livestock and poultry raising, feedlots, dairying, crop production, forestry, tree and shrub nurseries, greenhouses, sod farms, truck gardens and similar enterprises involving agricultural production. This shall include portable sawmills used for the purpose of processing the wood grown on the farm on which the sawmill is located.

FARM BUILDING. Any building or structure, other than a dwelling, which is customarily used on farms for the pursuit of their agricultural activities. .

FILLING. The depositing or dumping of any matter onto or into the ground.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls. The "floor area" of a building shall include the basement floor area when more than one-half (1/2) of the basement height is above the finished lot grade.

GROUP DAY CARE HOME. A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day-care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.

HOME OCCUPATION. An enterprise conducted within the dwelling or existing accessory buildings and which is secondary to the use of the dwelling as a residence and which meets the requirements of Section 5.02.D.

INSTITUTIONAL FACILITY Any church, school, governmental building or facility, lodge hall, veterans organization building, or similar non-profit facility.

JUNK. Any motor vehicles, machinery, appliances, product, merchandise, scrap metals, broken concrete, or other scrap materials that are deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

JUNK YARD. Any property used for the storage, keeping, dismantling, or abandonment of junk outside of an enclosed building.

KENNEL. Any premises on which more than three (3) dogs which are over six (6) months in age are kept or harbored.

LIVESTOCK. Horses, cattle, sheep, goats, mules, donkeys, hogs, and other hooved animals.

LOT OF RECORD. Any parcel of land which is separately described in a deed, land contract, or similar legal document evidencing a conveyance of ownership and recorded with the Tuscola County Register of Deeds.

MANUFACTURED HOME (includes house trailers and mobile homes). A dwelling unit designed for long term occupancy and designed to be transported after fabrication on its own wheels or as one or more units. This includes all units which could be licensed under the provision of Act 300 of the Public Acts of 1949, as amended.

MANUFACTURED HOUSING PARK. Any parcel of land which has been designed, improved or used for the placement of three or more manufactured homes or manufactured homes for dwelling purposes.

MEDICAL MARIJUANA DISPENSARY. Any location from which medical marijuana is legally provided to patients or caregivers.

OFF-SITE SIGN (BILLBOARD). A sign advertising something other than a facility or enterprise which is located on the same parcel of land as the sign.

PARKING SPACE. An area of not less than ten (10) feet wide by twenty (20) feet long, designed for the parking of a motor vehicle, such space being exclusive of necessary drives, aisles, entrances, or exits and being fully accessible for the storage or parking of permitted vehicles.

PLANNING COMMISSION. The duly appointed Planning Commission of the Village of Fairgrove.

PRINCIPAL ON-SITE SIGN. A sign advertising the name of a facility located 011 the same parcel of land as the sign.

QUARRYING. The removal of sand, clay, gravel, soil or similar material from its natural location for sale or use on a parcel of land other than the parcel on which the material was originally located.

SECONDARY ON-SITE SIGN. A sign advertising a service or product available at a facility located on the same parcel of land as the sign.

SETBACK. The distance between the base of a building and a road right-of-way line or a property line.

SIGN. Any outdoor sign, display, device, figure, painting, writing, drawing, message, placard, poster, billboard, or other thing designed, intended, or used to advertise or inform persons who are on the public roads.

SIGN AREA. The total surface area of a sign. In the case of signs having two sides back-to-back, the sign area shall be the total surface area of one side of the sign.

SITE CONDOMINIUMS. A condominium development which includes only detached single family residences located on individual sites.

SPECIFIED ANATOMICAL AREAS:

a. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernible turgid state, even if completely and opaquely covered .

SPECIFIED SEXUAL ACTIVITIES:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse or sodomy.

c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STRUCTURE. Anything constructed, erected, or placed on a parcel of land which is permanently located in the ground or attached to something having a permanent location. This shall include buildings, manufactured homes, pre-manufactured units, modular units, and similar items. Any structure located on the same premises for more than six months shall be deemed to be permanently located within the meaning of this definition.

VARIANCE, NON-USE. A variance granted by the Zoning Board of Appeals which allows for a variation of a dimensional requirement of the Zoning Ordinance or which allows for a variation of a requirement of the Zoning Ordinance not involving the uses permitted within the particular zoning district.

VARIANCE -USE. A variance granted by the Zoning Board of Appeals which allows a land use within a zoning distinct which is not otherwise permitted by the terms of the Zoning Ordinance.

VILLAGE COUNCIL. The duly elected or appointed Village Council of the Village of Fairgrove.

TRAVEL TRAILERS (including recreational vehicles, camping trailers, truck campers and motor homes).

Vehicular-type portable structures, primarily designed as temporary living accommodations for recreational camping or travel use. These vehicles can either be towed, hauled, or affixed to another vehicle and driven from one site to another without requiring a special transportation permit for travel.

TRAVEL TRAILER PARK. Any parcel of land designed, improved, or used for the placement of three (3) or more travel trailers used for overnight accommodations.

USE. The purpose for which a parcel of land or a building is designed, arranged, or intended or the purpose for which it is occupied, maintained, or leased.

YARD. An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings, and the nearest lot line and is unoccupied and unobstructed from the ground upward.

ARTICLE XXIII Severability and Repeal

Section 23.01. SEVERABILITY.

This Ordinance and the various articles, sections, paragraphs, sentences, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, sentence, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be

affected thereby.

Section 23.02. REPEAL.

The former Fairgrove Village Zoning Ordinance, adopted on the 4th day of December, 2010, and all amendments thereto, are hereby repealed in their entirety.

ARTICLE XXIV Enactment

Section 24.01. ORDINANCE ENACTED.

The provisions of this Ordinance are hereby enacted and declared to be immediately necessary for the preservation of the public health, safety, and welfare of the people of the Village of Fairgrove.

Section 24.02. EFFECTIVE DATE.

This Ordinance is ordered to be given effect seven (7) days after the date of publication specified in Section 24.03, pursuant to the Michigan Zoning Enabling Act.

Section 24.03. CERTIFICATION.

The undersigned Clerk of the Village of Fairgrove hereby certifies that this Ordinance is a true copy of the Ordinance which was duly adopted by the Fairgrove Village Council, at a meeting held on the day of _____, 2015. I further certify: that a notice of adoption of this Ordinance was duly published in the Tuscola County Advertiser on the day of _____ 2015 pursuant to the Michigan Zoning Enabling Act.

Heidi Stark
Fairgrove Village Clerk

Village of Fairgrove

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ZONING MAP

AR: AGRICULTURAL RESIDENTIAL

[22] MHP: MANUFACTURED HOUSING PARK

R: SINGLE FAMILY RESIDENTIAL

[2] CSO: CENTRAL BUSINESS DISTRICT

RM: MULTIPLE FAMILY RESIDENTIAL

C-I: COMMERCIAL INDUSTRIAL