

VILLAGE OF UBLY ZONING ORDINANCE

AN ORDINANCE to establish zoning regulations for the Village of Ubly, Huron County, Michigan, to, among other things, establish zoning districts regulating the use of land, the location, height, number of stories and size of buildings and structures, to provide for the regulation of the area of yards and other open spaces, to establish regulations governing nonconforming uses, structures and buildings, to provide for the administration, enforcement and amendment of such zoning regulations, to provide for the enforcement of the provisions of this Ordinance and penalties and other relief for the violation of this Ordinance, and to provide for conflicts with other ordinances or regulations, all in accordance with the provisions of Michigan Act 207 of 1921, as amended.

THE VILLAGE OF UBLY ORDAINS:

ARTICLE I TITLE, PURPOSES AND SCOPE

Section 1.0 TITLE

This Ordinance shall be known and may be cited as the “Village of Ubly Zoning Ordinance.”

Section 1.1 PURPOSES

This Ordinance is based on the Village of Ubly Master Land Use Plan and is intended and designed to regulate the use of land and structures, and to accomplish all of the following: to promote the public health, safety, and welfare; to limit the inappropriate overcrowding of land and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs; to encourage the use of lands and natural resources in the Village in accordance with their character and adaptability; to limit the improper use of land; to provide for the orderly development of the Village; and to reduce hazards to life and property.

Section 1.2 SCOPE

- A. Where any provision of this Ordinance imposes either greater or lesser restrictions, limitations, conditions, standards, or requirements upon (1) the use of buildings, structures or land, (2) the height of buildings or structures, (3) lot coverage, (4) lot areas, (5) yards or other open spaces, or (6) any other use, activity or conduct which is regulated by this Ordinance, than any comparable restriction, limitation, condition or requirement contained in any other provision of this Ordinance or any other ordinance, law or regulation, the provision which is more restrictive or limiting, or which imposes the higher condition, standard or requirement shall govern.
- B. This Ordinance shall not abrogate or annul any easement, covenant or other private agreement. Where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.
- C. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

- D. The regulations herein established shall be the minimum regulations for promoting and protecting the public health, safety and welfare.

Section 1.3 VALIDITY AND SEVERABILITY CLAUSE

This Ordinance and the various parts, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, use, building, or structure, such ruling shall not affect the application of said provision to any other lot, use, building, or structure not specifically included in said ruling.

Section 1.4 EFFECTIVE DATE

This Ordinance was adopted by the Village Council and will take effect on November 5, 2009.

Section 1.5 LEGAL BASIS

This Ordinance is enacted in accordance with Michigan Public Act 207 of 1921, as amended.

ARTICLE II DEFINITIONS

Section 2.0 GENERAL CONSTRUCTION OF THIS ORDINANCE

The following rules of construction shall apply regarding the use and interpretation of certain terms of words used in this Ordinance.

- A. The term “person” includes an individual, firm, association, organization, partnership, trust, company, corporation or any similar entity.
- B. The term “shall” is always mandatory and not discretionary, the term “may” is permissive.
- C. The term “used” includes the terms “intended”, “maintained”, “designed”, “arranged” or “occupied”.
- D. The term “building” or “structure” includes any part thereof.
- E. The terms “used” or “occupied” as applied to any land, building or structure, shall be interpreted to include the phrases “intended to be” or “designed to be” used or occupied.
- F. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- G. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, “either...or”, the conjunction shall be interpreted as follows:
 - 1. “And” indicates that all the connected items, conditions, provisions or events shall apply.
 - 2. “Or” indicates the connected items, conditions, provisions or events may apply singly or in any combination.
 - 3. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

Section 2.1 DEFINITIONS:

Accessory Structure: A detached structure on the same lot with, and or a nature customarily incidental and subordinate to, principal structure such as a garage, swimming pools and tool sheds.

Accessory Uses: A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

Automobile Body Repair Station: Includes buildings and premises where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame for fender straightening and repair; overall painting and undercoating of automobiles.

Automobile Service Station: Includes buildings and premises for the primary purpose of the

retail sales of gasoline (stored only in underground tanks), oil, grease, batteries, tires and other operational fluids and accessories for the automobile, and the installation of such commodities, and for other minor automobile repair not to include: auto refinishing, body work, dismantling of automobiles for the purpose of reuse or resale of parts, or storage of automobiles other than those in for immediate repair or service. Sales of convenience items shall be considered an accessory use when occupying no more than twenty-five percent (25%) of the gross floor area.

Automobile Wash: Includes any building or structure or portion thereof containing facilities for washing motor vehicles using production line methods with a conveyor, blower, steam cleaning device or other mechanical washing devices; and shall also include coin attendant operated drive-through, automatic self-serve, track mounted units and similar high volume washing establishments, but shall not include hand washing operations in an “Automobile service station.”

Bed and Breakfast Inn: Shall mean any dwelling in which overnight accommodations are provided or offered for transient guest for compensation, including provision for a morning meal only for the overnight guest only. A bed and breakfast is distinguished from a motel in that a bed and breakfast establishment shall have only one set of kitchen facilities, employ only those living in the house or up to two (2) additional employees, and have a façade style consistent with surrounding homes.

Board of Appeals, Zoning: The Board of Appeals as provided under the provisions of the City and Village Zoning Act, being 207, Public Acts of 1943 as amended, with powers and duties as defined in those statutes, except as modified herein.

Buffer Area: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Building Line: A horizontal line generally parallel to a front, side or rear lot line which is located at the point of principal building foundation nearest the front, side or rear lot line (See Figure 2.1).

Community Center: A place, structure, area or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Conditional Use: A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to public health, safety or general welfare.

Convenience /Grocery Store: Any retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same. Prepared foods may also be available for consumption off premises.

Density: The number of dwelling units permitted per acre.

Easement: The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

Height: The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, the height shall be measured from the average grade to the highest point of the roof surface.

Home Occupation: A gainful occupation traditionally and historically conducted in a dwelling unit as an activity clearly incidental and secondary to the principal use of the building or structure. Business must occur completely within the home, but does not encompass more than 20% of the total living area. Home occupations may not employ more than two persons who are not related to the owner of the home.

Kennels: An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Manufactured Home: A dwelling unit which is designed for long term residential use and is wholly or substantially constructed at an off-site location.

Mobile Home: A detached residential dwelling unit transportable in one or more sections, built on a chassis and designed to be used with a permanent foundation.

Mobile Home Park (i.e. Manufactured Housing Park): A parcel or tract of land under the control of a person, group or firm upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of compensation, including any building, structure, enclosure, street, drive, equipment or facility used or intended for use incidental to the occupancy. Mobile home parks are licensed and regulated by the Michigan Mobile Home Commission.

Non-Conforming Building or Structure: A building or structure lawfully in existence on the effective date of this Ordinance, or amendments thereto, which no longer meets the regulations of the district in which it is located.

Non-Conforming Lot: A lot of record, lawfully in existence on the effective date of this Ordinance and any amendments thereto, which no longer meets the dimensional requirements of the Ordinance for the district in which it is located.

Non-Conforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance, as amended, and that does not conform to the use or regulations of the district in which it is located.

Outdoor Storage: The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

Principal Building, Structure or Use: The main building, structure or use to which the premises are devoted and the principal purpose for which the premises exist.

Private Garages: A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

Recycle of Transfer Facilities: Any facility which accepts used materials for the expressed purpose of redistributing those materials for reuse or recycle.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh or bar configured; is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio or other electromagnetic communication signals

between terrestrially and/or orbitally based uses. This definition is to include but not be limited to what are commonly referred to as satellite earth stations, television reception only satellite dish antennas and satellite microwave antennas.

Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

Setback: The required minimum horizontal distance between the building line and the related front, side, or rear property line. (See figure 2.1).

Twenty-Four Hour Emergency Care Center: A licensed walk-in medical care facility for emergency treatment.

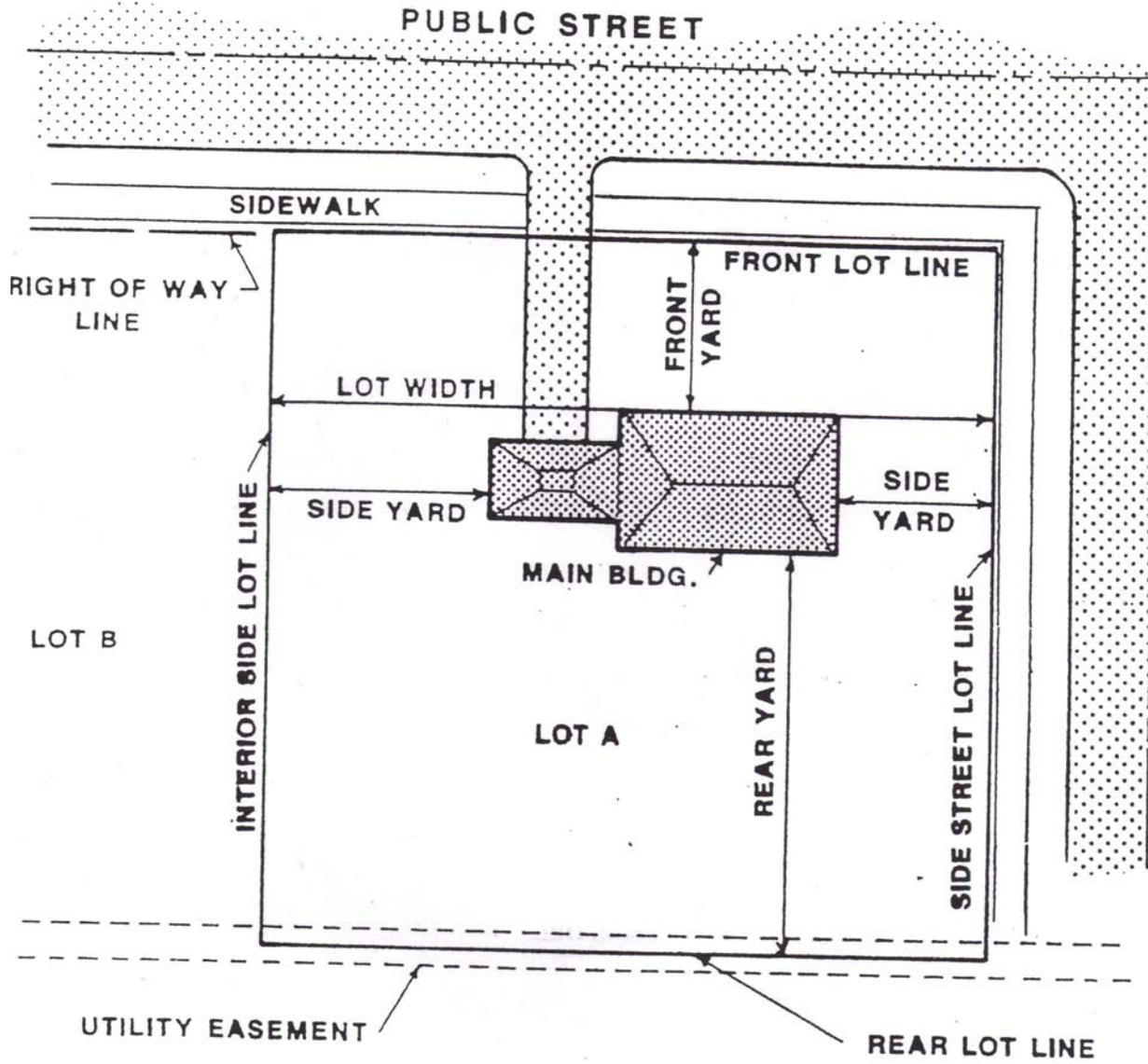
Variance: A dispensation permitted on individual parcels of property as a method of alleviating unnecessary hardship by allowing a reasonable use of the building, structure, or property, which, because of unusual or unique circumstances, is denied by the terms of the zoning code.

Warehouse: A building used primarily for the storage of goods and materials.

Zoning Act: The City or Village Zoning Act, Michigan Act 207 of 1921, as amended.

FIGURE 2.1

LOT LINES AND YARDS



ARTICLE III GENERAL PROVISIONS

Section 3.0 APPLICATION PROCEDURES IN GENERAL

The process for application and review by the Village of Ubyly for site plan review, special land use permits, amendments to this zoning ordinance, rezoning of land, variances and subdivision plats is shown on Figure 3.1 on the following page. Submittal dates, application forms and information of fee requirements are available at the Village Clerk's office. Owners shall seek a permit application for **all buildings** regardless of size or use from the Zoning Administrator.

Section 3.1 PRINCIPAL BUILDING, STRUCTURE OR USE

No lot may contain more than one principal building, structure or use, excepting groups of multiple family dwellings or retail business buildings or other groups of buildings the Zoning Administrator deems to be a principal use collectively.

Section 3.2 ESSENTIAL PUBLIC SERVICES

Essential public services include underground or overhead gas lines, electrical transmission lines, cable television lines, steam lines, public water lines, regulatory signs, sanitary sewer or storm water systems, public drainage ways, and similar public communication or utility systems.

The erection, construction, alteration or maintenance of essential public services, as authorized under any franchise in effect within the Village shall be permitted subject to regulation as provided in any law in the State of Michigan or in any Village Ordinance; provided it is the intention of the Zoning Ordinance to ensure conformity of all structures and uses to the requirements of this Zoning Ordinance wherever such conformity shall be practicable and not in conflict with the specific requirements of such franchise, state legislation or Village Ordinance. Ordinance includes specific location and design standards for above ground essential public service buildings and storage yards to ensure compatibility with surrounding uses.

Section 3.3 TEMPORARY BUILDINGS, STRUCTURES AND USES

Temporary buildings and structures may be placed on a lot upon receipt of a building permit prior to erection and subject to the following:

- A. **Trailers or buildings incidental to construction on a non-single family residential lot:** Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste or fuel facilities, related to construction activity on the same lot. No temporary building or structure shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Building Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot.
- B. **Mobile homes during construction of a single family home or duplex:** Mobile homes may be placed on a lot and occupied during construction of a single family home on the lot, provided the home is removed within one (1) year following the issuance of a building permit or within fifteen (15) days after an occupancy permit is issued for the single family home.

- C. **Seasonal Uses:** Seasonal sales, such as the sale of Christmas trees and sales of produce grown on the premises, shall be permitted for a maximum of ninety (90) days within any one (1) calendar year. Any building and required parking shall be approved by the Zoning Administrator prior to conduct of business. Such building shall be removed within five (5) days after the sale ends.
- D. **Garage Sales:** Sale of new or used household goods on private property shall be limited to three (3) consecutive days within one (1) calendar month.
- E. Structures such as a “canvas type storage building” shall be used seasonally under twelve (12) months (e.g. RV storage).

Section 3.4 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS

Any single-family dwelling, whether constructed and erected on a lot or a manufactured home, shall comply with all of the following conditions:

- A. A building permit shall be required prior to construction, including any additions.
- B. If the dwelling unit is a mobile home, the mobile home must either be (i) new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or (ii) used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in Subsection (i) above, and found, on inspection by the Building Administrator or his designer, to be in excellent condition and safe and fit for residential occupancy.
- C. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the Village, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by Village codes, then and in such event federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Chief Building Official.
- D. The dwelling unit shall comply with all restrictions and requirements of the zoning district listed in this Zoning Ordinance including minimum lot area, minimum lot width, minimum residential floor area, required yard and maximum building height.
- E. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty (20) feet and a usable living area of not less than 900 square feet.
- F. Any wheels, towing apparatus and exposed chassis shall be removed before occupancy of any housing is permitted.
- G. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a mobile home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism.
- H. If the dwelling unit is a mobile home, it shall be installed and secured to a permanent continuous

foundation by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for mobile home parks.

- I. The exterior finish of the dwelling unit shall not cause glare or reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.

Section 3.5 ACCESSORY BUILDINGS, STRUCTURES AND USES

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with an occupied and used principal building, structure or use which is permitted in the particular zoning district. An accessory structure will not be permitted unless a principal structure already exists on the property. Exception will be made in cases where a building permit is obtained for the primary use and construction has commenced.
- B. In residential districts, where the accessory building, structure or use is structurally attached to a principal building, structure or use, it shall be subject to all the regulations of this Ordinance applicable to principal buildings, structures and uses; except an attached porch or deck may extend into the required front or side yard by up to ten (10) feet.
- C. **Location and Setbacks:** Residential accessory buildings shall be permitted within the rear yard when setback at least ten (10) feet from the principal building and five (5) feet from all property lines. A detached garage shall be permitted in the side yard when separated from the principal building by a minimum ten (10) feet and meeting the zoning district side yard setback requirement.
- D. **Maximum Number:** A lot may have no more than two (2) detached accessory buildings.
- E. **Maximum Size:** The combination of all accessory buildings on a lot shall not exceed fifty (50) percent of the ground floor area of the principal building. No one accessory building shall exceed nine hundred (900) square feet in floor area.
- F. **Swimming Pools:** Swimming pools shall be setback at least ten (10) feet from all property lines, including any walls or walkways. There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot. Fencing shall be in conformance with the building code.
- G. **Radio or television antennas or towers, including satellite dish antennas:** These shall not be permitted in the front yard.

Section 3.6 FENCES, WALLS AND SCREENS

- A. No fence shall be permitted which interferes with adequate sight distance at street intersections or at driveways.
- B. No fence, wall or screen shall be erected within any public right-of-way.
- C. An engineered survey of property lines may be required if this information can't be found by the Zoning Administrator.
- D. Setback shall be not less than two (2) feet from adjacent lots in order to perform maintenance on both sides of the fence. Fencing shall not be installed in Village right of ways and/or utility

easements.

- E. Height in Residential Districts: Fences in single family residential districts shall not exceed three feet six inches (3' 6") in height in the front yard. A corner or through lot shall be considered to have two (2) front yards.
- F. Height in Industrial Districts: The maximum height of a fence shall be six (6) feet, except a security fence up to eight (8) feet high may be allowed for a commercial or industrial use, including a maximum of one (1) additional foot of barb wire.
- G. All fences shall have a "finished look" facing the street side of the property and shall be installed in a neat and workman-like manner.
- H. All fences constructed to provide a buffer or screen from adjacent uses shall be made of durable materials and determined to be structurally sound by the Village.
- I. No electric fences shall be permitted.
- J. Temporary fences serving the purpose of a "snow block" shall be allowed during winter months only.
- K. Kennels and fences used to contain animals shall be considered permanent and have a permit issued for installation.

Section 3.7 SITE LIGHTING

All lighting shall be designed to direct light downward and away from adjacent uses. The Planning Commission may place limitations on lighting in consideration of adjacent land uses.

Section 3.8 SIGNS

- A. The following definitions shall apply to terms used in this Section of the Zoning Ordinance:
 - 1. **Banner sign:** A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
 - 2. **Billboard:** A sign which advertises an establishment, product, service, or activity not available on the lot on which the sign is located.
 - 3. **Construction Sign:** A sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
 - 4. **Directional Sign:** A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
 - 5. **Freestanding Sign:** A sign supported on poles not attached to a building or wall.
 - 6. **Government Sign:** A temporary or permanent sign erected by the Village of Ubyly, Huron County, or the state or federal government.
 - 7. **Ground Sign:** A sign resting directly on the ground or supported by short poles not

attached to a building or wall.

8. **Portable Sign:** A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
9. **Projecting Sign:** A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than thirty-six (36) inches from the face of a building or wall.
10. **Reader Board:** A portion of a sign on which copy is changed manually.
11. **Real Estate Sign:** A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
12. **Sign:** A device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
13. **Special Event Sign:** Temporary or portable signs containing public messages concerning special events sponsored by governmental agencies or non-profit organizations.
14. **Wall Sign:** A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of the wall to which it is attached.
15. **Window Sign:** A sign installed inside a window and intended to be viewed from the outside.

B. General Sign Provisions:

1. No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, provided the following signs shall not require a building permit:
 - a. Directional signs of six (6) square feet in size or less.
 - b. Government signs
 - c. Placards
 - d. Temporary sale signs of four (4) square feet in size or less
 - e. Window signs
2. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other conditions which impair legibility or intelligibility.
3. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
4. Signs may be internally illuminated or if externally illuminated, except for home occupation signs which shall not be illuminated, the source of the light shall be enclosed or directed to

prevent the source of light from shining directly onto traffic or residential property.

5. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this Section.
6. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
7. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
8. No commercial vehicles, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
9. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
10. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
11. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of commercial advertisement) hung overhead to draw attention to a business or its merchandise on display shall be allowed for up to six (6) consecutive weeks in one (1) calendar year at any location.
12. No wall sign shall extend beyond the edge of a wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
13. No sign shall be erected above the roof line of a building.

Section 3.9 HOME OCCUPATIONS

A home occupation shall be permitted as an accessory use in a single family residential dwelling subject to the regulations of this section.

- A. No more than two (2) persons other than members of the family residing on the same premises shall be engaged in such occupation.
- B. The use of the dwelling for the home occupation shall be clearly accessory, incidental and subordinate to its use for residential purposes, and not more than twenty percent (20%) of the floor area of the dwelling shall be used for the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home provided, however, that there may be one (1) sign, not exceeding sixteen (16) square feet in area.
- D. The home occupation shall be conducted entirely within the confines of the dwelling; no outside storage shall be permitted.

- E. The Planning Commission shall find the general character of the home occupation to be compatible with the neighborhood in terms of aesthetics, traffic generated, parking demand, noise, odors and similar impacts.

Section 3.10 EXCAVATIONS

- A. The excavation and removal of soils shall be permitted only under a renewable annual permit, subject to the approval of the Village Planning Commission based on a finding that the proposed excavation operation and the conditions in which the excavation site will be left not to be detrimental to the surrounding land uses, nor to the public health, safety, morals, and general welfare; excepting, however, the provisions of this paragraph shall not apply to excavations for the construction of a structure for which a building permit has been issued.
- B. The filling and grading of any lot shall be permitted only under a permit for a prescribed period of time, to be determined by the Commission, and upon finding by such Commission that the proposed filling or grading will not encroach upon an existing floodplain and will not be detrimental to surrounding land uses, nor to the public health, safety, morals, and the general welfare.
- C. The Commission may require all documents necessary to make the foregoing finding, and impose such conditions as it deems necessary to safeguard the public health, safety, morals, and the general welfare.
- D. The Commission shall establish the amount of a bond and require a posting of such bond running to the Village holding the Village free of all liabilities incidental to such an excavation and to assure performance in accordance with the conditions required by the Commission.

Section 3.11 LANDFILLS, LITTER, RUBBISH, JUNK STORAGE AND DISPOSAL

- A. No unwholesome substance shall be deposited, dumped, composted or accumulated by any person on any place or premises, private or public, situated in the Village, unless such place or premises is a landfill fully licensed as required by law for the receipt and disposal of the unwholesome substance or unless the unwholesome substance is completely shielded from public view and view from adjoining properties by being housed within a building or structure or being enclosed by a fence erected and maintained in compliance with this Zoning Ordinance; except a composting pile used only by the resident of a single family home shall be permitted if adequately covered and screened and odors are controlled.
- B. As used in this Section only, those terms which appear below are defined as follows:
 - 1. The term “building material” shall be defined as all items used or useful in the construction of a building or structure including, but not limited to, lumber, bricks, concrete blocks, cinder blocks, plumbing materials, electrical wiring and equipment, heating ducts and equipment, shingles, mortar, concrete, cement, sand and gravel.
 - 2. The term “inoperable vehicle” shall be defined to mean any vehicle which lacks any or all of the necessary component parts to make it operative and serviceable and/or which is not currently licensed, to the extent required, for use upon highways of the State of Michigan.
 - 3. The term “junk” shall be defined to mean parts of machinery, vehicles or boats, used stoves or other appliances, plumbing fixtures, furniture stored in the open, iron, steel and other ferrous or nonferrous materials, batteries, remnants of wood, and, in general, any other

cast-off material of any kind, whether or not the same could be put to any reasonable use.

4. The term “motor vehicle body” shall be defined to mean any motor vehicle which is unable to be driven upon a highway under its own power and/or which lacks all of the necessary component parts to make it operative and serviceable as a motor vehicle’ or which is not currently licensed for use upon the highways of the State of Michigan.
5. The term “trash” shall be defined to mean any of the following; garbage (all organic refuse and rejected food waste); ashes (the residue left from burning of paper, leaves, weeds, wood and coal); kitchen or household rubbish (all types of food containers and wrappings common to everyday household use); and yard rubbish (materials which grow on the property such as grass clippings, weeds, leaves, plants, garden trash, clippings from hedges and shrubs, branches, limbs, roots and stumps).
6. The term “unwholesome substance” shall be defined to mean any trash, motor vehicle body, inoperable vehicle or boat, stone, junk, offal, refuse, rubbish, debris, animal wastes, filth, building material other than when a building permit for construction on the property is in effect or the display of the materials is permitted as part of an approved commercial use; or any other material which constitutes a threat of menace to the health, safety or general welfare of the public.

Section 3.12 STORAGE AND REPAIR OF VEHICLES

- A. A maximum of one (1) boat, trailer or other type of recreational vehicle may be parked in the front yard. This does not include pickup trucks and similar vehicles used for everyday driving.
- B. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:
 1. No more than one (1) vehicle being repaired may be parked on a lot at any one time.
 2. Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within a garage.
 3. Inoperable vehicles and vehicle parts shall be stored inside a building.
- C. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use is construction being conducted on such lot.

Section 3.13 USE OF NON-CONFORMING LAND, BUILDINGS, AND STRUCTURES

- A. At the discretion of the owners, the lawful use of any building, structure, land, or premises existing prior to the effective date of this Ordinance, although the use does not conform to the provisions of this Ordinance, may be continued, and such use of any building may be extended, provided no structural changes are made therein except those required for safety and/or routine maintenance.
- B. Additions to any non-conforming building for the purpose of extending or expanding a non-

conforming use, may be granted by the Village Zoning Board of Appeal only. If, on such hearing, it shall appear that the proposed addition or extension will be contrary to the purpose of this Ordinance or injurious to the neighborhood wherein situated, then permit for such addition or extension shall be denied.

- C. The nonconforming use of any building, structure, lot or parcel of land shall not be changed to any other nonconforming use.
- D. Wherever the nonconforming use of any building, structure, land or premises is changed in whole or part to a conforming use, such use shall not thereafter be reverted to any nonconforming use.
- E. In the nonconforming use of any building, structure, land or premises or part thereof, is discontinued through vacancy, lack of operation or otherwise for a continuous period of 12 months, then any future use of said building, structure, land or premises shall conform in its entirety to the provision of this Ordinance; provided, however, that the Village Zoning Board of Appeals may, upon application within six (6) months of the termination of said period, permit the resumption of such nonconforming use.
- F. If it can be shown that extenuating circumstances have affected the disposal or continued use of a nonconforming structure, the Zoning Appeal Board may extend the twelve (12) month time limit at increments of six (6) months.

Section 3.14 RECONSTRUCTION, REPAIR, RESTORATION

Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, acts of God, or acts of the public enemy subsequent to the effective date of this Ordinance wherein the expense of such reconstruction does not exceed sixty (60) percent of the fair valuation of the building or structure at the time such damage occurred; provided that such valuation be approved in writing by the assessing officer of the property, and provided, further, that said use be identical with the nonconforming use permitted, and in effect at the time of said damage. Such reconstruction, repair or restoration shall be completed within twelve (12) months following the damage and resumption of use takes place.

Section 3.15 WORKMANSHIP AND MATERIALS

All construction shall be completed with either new or quality used materials. Used materials shall be approved by the Zoning Administrator after finding that said materials are equal to or of higher quality than new. All work shall be done in a manner consistent with the State of Michigan construction code.

Section 3.16 OUTDOOR FURNACES

Outdoor furnaces shall be allowed and installed in accordance with the following:

- A. The owner will submit a site plan to the Zoning Administrator that shall include the entire lot, all buildings and proposed placement of the furnace. Upon approval from the Zoning Administrator, the owner shall apply for a village permit followed by application and filing of a County mechanical permit if applicable.
- B. An outdoor wood/corn furnace shall be laboratory tested and listed to appropriate safety standards such as UL (Underwriters Laboratories), CAN/CSA (Canada National Standards/Canadian Standards Association), or ANSI (American National Standards Institute) standards or other appropriate safety

standards,

C. Outdoor furnaces shall be installed, operated and maintained per the manufacturer's instructions.

D. Only natural wood and/or corn may be burned in any outdoor furnace. The following items may never be burned in any outdoor furnace, including, but not limited to: trash, plastics, gasoline, rubber, naphtha, household garbage, materials treated with petroleum products (e.g. particle board, railroad ties, and pressure treated wood), leaves, paper products and cardboard.

E. Setback requirements:

1. From the front lot line; no closer than the primary building.
2. From the side and rear lot lines; twenty-five (25) feet.
3. From another residence not being served by the furnace on adjacent properties; fifty (50) feet.

F. Exhaust requirements:

1. Exhaust stack material shall be suitable for use in accordance with the manufacturer's instructions and/or mechanical code requirements.
2. When the outdoor furnace is located within twenty-five (25) feet of the primary building, the exhaust stack shall be located at least two (2) feet higher than the peak of the primary building.
3. When the outdoor furnace is located outside of twenty-five (25) feet of the primary building, the exhaust stack shall be located at least fifteen (15) feet above grade.

G. Burning materials shall be stored neatly and not in a noxious manner to public viewing.

Section 3.17 BUFFER ZONES

A. In order to avoid sight and sound nuisances between residential and adjacent industrial and/or commercial properties, buffer zones shall be installed. They shall be of the plant and/or greenbelt type. In new installations, buffer zones shall be planted within six (6) months from the date of issuance of certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Suggested plant materials include:

1. Evergreen trees (minimum five (5) feet in height) including Juniper, Fir, Spruce, Hemlock, Pine and Douglas-Fir.
2. Narrow Evergreens (minimum three (3) feet in height) including Column Hinoki Cypress, Blue Columnar Chinese Juniper, Pyramidal Red-Cedar, Swiss Stone Pine, Irish Yew, Douglas Arbor-Vitae and Columnar Giant Arbor-Vitae.
3. Tree-like shrubs (minimum four (4) feet in height) including Flower Crab, Mountain Ash, Redbud, Hornbeam, Magnolia, Russian Olive, Dogwood, Rose of Sharon and Hawthorn.

4. Large Deciduous Shrubs (minimum six (6) feet in height) including Honeysuckle, Mock-Orange, Lilac, Cottoneaster, Evonymus, Viburnum, Forsythia, Ninebark, Hazelnut, Privet, Buckthorn and Sumac.
5. Large Deciduous Trees (minimum eight (8) feet in height) including Oak, Hackberry, Plane Tree, Sycamore, Ginkgo, Sweet-Gum, Hard Maple, Birch, Beech, Honey Locust, Hop Hornbeam and Linden.

B. Plant material spacing:

1. Plant materials shall not be placed closer than four (4) feet from the fence line or property line.
2. Where plant materials are placed in two (2) or more rows, plantings shall be staggered in rows.
3. Evergreen trees shall be planted not more than thirty (30) feet on centers, and shall be not less than five (5) feet in height.
4. Narrow evergreens shall be planted not more than six (6) feet on centers, and shall be not less than three (3) feet in height.
5. Tree-like shrubs shall be planted not more than ten (10) feet on centers, and shall not be less than four (4) feet in height.
6. Large deciduous shrubs shall not be planted not more than four (4) feet on centers, and shall be not less than six (6) feet in height.
7. Large deciduous trees shall be planted not more than thirty (30) feet on centers, and shall not be less than eight (8) feet in height.

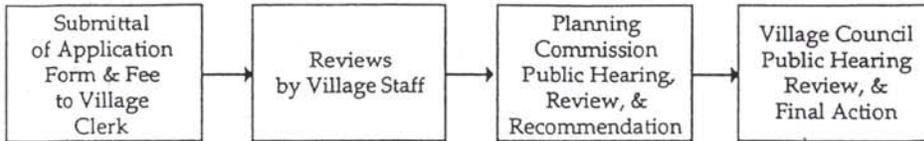
C. Trees not permitted:

1. Box Elder, Soft Maple (red-silver), Elms, Poplars, Willows, Horse Chestnut (nut bearing), Tree of Heaven and Catalpa.

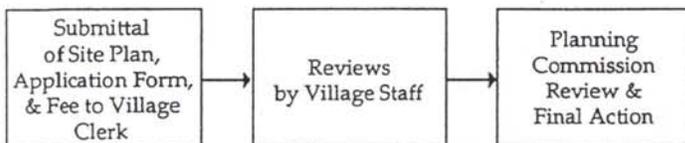
VILLAGE OF UBLY DEVELOPMENT REVIEW PROCESS

FIGURE 3.1

■ ZONING ORDINANCE AMENDMENTS AND REZONINGS

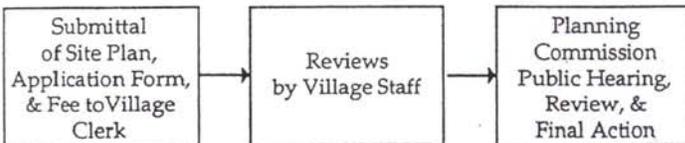


■ SITE PLAN REVIEW

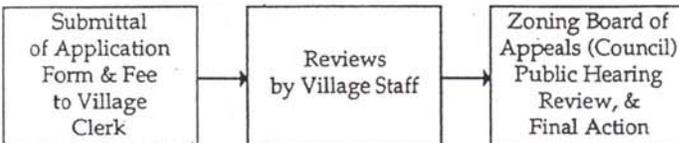


Note: Any required variances must be obtained from the Zoning Board of Appeals (Council) prior to Planning Commission approval of a site plan.

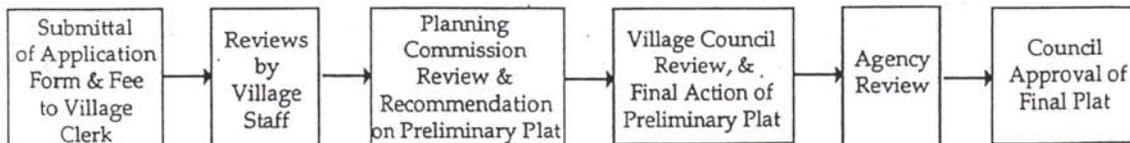
■ SPECIAL USE PERMITS



■ VARIANCES, ZONING ORDINANCE INTERPRETATION



■ PRELIMINARY AND FINAL (SUBDIVISION) PLATS



Refer to the Zoning Ordinance text and Application forms for detailed information regarding deadlines, meeting schedules, fee amounts, number of copies required, and minimum submittal requirements.

ARTICLE IV SCHEDULE OF DISTRICT REGULATIONS

ZONE DISTRICT	PERMITTED BY RIGHT	* SPECIAL USES	PERMITTED ACCESSORY USES	MINIMUM LOT SIZE	MINIMUM SETBACKS	HEIGHT REQUIREMENTS	OFF-STREET PARKING (Applies to all Zoning Districts)
A - Agricultural	Single family dwellings (in accordance with Sec. 3.4) Farm Buildings Agriculture, incl. nurseries Seasonal Roadside stands Golf Courses Riding Stables	Agricultural processing plants Public and/or private recreational facilities Home Occupations, as provided in Sec. 3.15 Kennels	Agricultural outbuildings for housing animals and/or storage of food, seed or equipment. Private garages Satellite dishes (limited to the side or rear yard) Swimming pools (provide the pool is located in the rear yard and fenced in accordance with the state construction code. The pool must also be least 10 feet from the side or rear lot line) Other uses directly related to the property's primary use	One (1) acre 150 feet wide	Front - 25' Side - 20' Rear - 35'	35 feet for residential structures; 20 feet for accessory structures other than barns, silos or other similar agricultural buildings. 35 feet or two and one-half stories; whichever is less)	Dimensions 90' Stall 9' X 18" 26' wide min. aisle Dimensions 60' Stall 9' X 18" 15' wide min. aisle <u>Parking Requirements</u> S.F. Home: 2 Spaces <u>M.F. Dwelling: 2 Space Per Unit</u> Church: 1 space per 3 Seats or 6 foot of Pews Schools: 2 for each 3 employees + 1 for each 4 students + 1 for each 4 auditorium or gymnasium seats. <u>Office: 1 per 300 sq.ft. of building</u> <u>Other Retail: 1 space per 500 sq.ft. of building</u> <u>Motel: 1 per room + 0.7 for each restaurant seat provided</u> <u>Restaurant: 0.7 per seat at maximum capacity</u> <u>Boothing: 5 spaces per lane</u> <u>Industrial: 1.5 spaces per 1000 sq.ft. of building or 1.2 per peak employees</u>
LDR - Low Density Residential	Single family dwellings	Schools Churches Public parks, playgrounds Community centers Home Occupations, as provided in Sec. 3.15	Same accessory uses and regulations as the agricultural district	100' wide at the property line and 150' deep	Front - 50' Side - 10' Rear - 10'	35 feet or two and one-half stories	

¹In all zoning districts: In established neighborhoods which have an established building line which is less than the front yard setback required in this Ordinance, the zoning administrator may allow construction to occur in conformity with the properties within 300' feet of the subject parcel.

²On non-conforming lots where strict adherence to these regulations is impossible, the zoning administrator may reduce the side yard requirement to not less than six feet.

ZONE DISTRICT	PERMITTED BY RIGHT	* SPECIAL USES	PERMITTED ACCESSORY USES	MINIMUM LOT SIZE	MINIMUM SETBACKS	HEIGHT REQUIREMENTS	OFF-STREET PARKING (Applies to all Zoning Districts)
VCR - Central Village Residential	Single family dwellings	Public parks, playgrounds Home Occupations, as provided in Sec. 3.15 Two-family dwellings 24 hr Emergency care facilities	Same accessory uses and regulations as the agricultural district	65' wide and back to the alley right-of-way	Front - 25' Side - 10' Rear - 5'	35 feet or two and one-half stories	Handicapped: Per State Code Loading Space: One 10'x 50' space per comm. or monthly use + 1 space for each 20,000 sq.ft. of building Bank: 1 per 200 sq.ft. building + 3 stacking for each drive through Autowash: 10 stacking spaces + space for employees Gas Station: 2 spaces per pump Beauty/Barber Shop: 2 space for each chair Convenience Store/Parking: 1 space per 250 sq.ft. of building Public Buildings and Recreation Centers: 1 space for each 100 square feet of assembly area
MP Multi-family Residential	One and two family dwellings * Multiple family dwellings	Mobile home/manufactured housing parks as regulated by P.A. 96 of 1987, and the Michigan Mobile Home Commission Public and private recreation facilities, including playgrounds Schools, churches 24-hr. Emergency care facilities	Same accessory uses and regulations as the agricultural district	4000 sq. feet PER UNIT (30'feet wide for each unit)	Front - 50' Side - 10' Rear - 10'	35 feet or two and one-half stories	
CBD- Commercial/Business District	* Restaurants and bars without drive through facilities * Small appliances and machine repair * Assembly halls, including private clubs General retail shops and stores, including groceries, hardware, furniture, greeting cards, clothing, etc. Auto parts and tire stores without outdoor storage Professional offices and personal service establishments, including barber and beauty shops, dentists, doctors, accountants, realtors, etc.	Gasoline stations with no more than one (1) service bay and no outdoor vehicle storage Funeral homes Commercial recreation facilities (i.e., skating rinks, theaters, bowling, etc.) Hotels/motels Dwelling units located over existing storefronts Storage Units	Dumper pads and storage buildings for dumpsters Buildings for screening mechanical appliances	N/A, except for non-commercial structures and dwellings which shall comply with all yard and setback regulations provided for the VCR District.	N/A		

ZONE DISTRICT	PERMITTED BY RIGHT	* SPECIAL USES	PERMITTED ACCESSORY USES	MINIMUM LOT SIZE	MINIMUM SETBACKS	HEIGHT REQUIREMENTS	OFF-STREET PARKING (Applies to all Zoning Districts)
PF - Public and Quasi-public Facilities	<ul style="list-style-type: none"> • Parks • Playgrounds • Schools • Village Halls and meeting areas 	<ul style="list-style-type: none"> • Golf Courses • Churches • Public utility structures and uses 	N/A	N/A		35' or two and one-half stories	
IND - Light Industrial/Heavy Commercial	<ul style="list-style-type: none"> • Manufacturing facilities • Warehousing • Electrical substations • Machine shops • Grain elevators 	<ul style="list-style-type: none"> • Outdoor storage (building supply yards, tank yards, contractors storage) • Bicycle and transfer facilities • Auto salvage yards, provided that the yard is located on not less than 10 acres and is fully screened from neighboring properties by either a six foot privacy fence or a six foot chain link fence topped with barbed wire. • Sawmills • Central drycleaners • Waste treatment facilities • Sand and gravel mining 	N/A		Front - 50' Side - 20' Rear - 15'	35', excluding necessary mechanical appurtenances	

Uses marked with an asterisk (*) require Site Plan Review by the Village Planning Commission. This includes all Special Uses in all districts.

**ARTICLE V
SITE PLAN REVIEW**

Section 5.0 INTENT

It is the intent of this Chapter to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development.

Section 5.1 USES SUBJECT TO SITE PLAN REVIEW

- A. Site plan review by the Planning Commission is required for the following:
 - 1. Multiple family dwellings.
 - 2. Uses permitted by right in the following districts: Commercial/Industrial District.
 - 3. Special land uses in all districts.
- B. Site plans not required to be reviewed by the Planning Commission shall be reviewed by the Zoning Administrator. The Zoning Administrator shall review such plans in accordance with the same timeframe, procedures, requirements and standards used by the Planning Commission.

Section 5.2 SITE PLAN REVIEW PROCEDURES

- A. Applications for site plan approval shall be submitted to the Zoning Administrator with an application form and fee, determined by resolution of the Village Council.
- B. Applications for preliminary site plan approval shall consist of the following:
 - 1. An application form supplied by the Zoning Administrator.
 - 2. A nonrefundable application review fee to cover administrative costs. The amount of the fee shall be determined by resolution of the Village Council and may be revised from time to time.
 - 3. A reproducible copy of the site plan at a scale of not less than one (1) inch equals one hundred (100) feet with the following minimum information:
 - a. The name and address of the person(s) and firm(s) who prepared the site plan and the date of which the plan was prepared, including any revisions.
 - b. Legal description of the subject site.
 - c. Property dimensions including all lot lines and total acreage.*
 - d. Significant topographic elevations.
 - e. Existing vegetation, such as significant trees or woodlands.
 - f. Water courses and water bodies, including man-made surface drainage ways or

wetlands.

- g. Existing public right of way and/or private easements including utility easements.*
- h. Zoning classification of abutting properties.*
- i. Existing buildings and structures on the site and within one hundred (100) feet of the property lines. The plan should note any buildings or structures which are to be relocated or demolished.
- j. Proposed buildings and structures with dimensions including; all buildings (including setbacks from property lines), general floor plans, parking lot layout, driveways, sidewalks, signs, utility lines, landscaping, fences, walls, dumpsters and any proposed outdoor storage or display areas.*

* Required for sketch plan for certain special land uses listed in the table in Article IV. The Planning Commission may require other information from the above list based on the proximity and types of surrounding land uses and the potential significant impacts the special land use may have on adjacent property.

- C. The Planning Commission may require written statements relative to the potential impacts on: traffic operations, safety of pedestrians or motorists, school enrollment, existing or potential utilities, and/or natural features.
- D. The Planning Commission shall review the site plan and approve, approve with conditions, or deny the plan. Any conditions should be noted in the minutes and a time period specified for the applicant to submit a revised set of plans for review and approval by the Zoning Administrator.
- E. Approval of the site plan is valid for a period of one (1) year. If construction of the development, including at a minimum, approved footings and/or foundation, has not been initiated within the year, the site plan approval shall be null and void.
- F. Upon written application, filed prior to termination of the one (1) year review period, the Planning Commission may authorize a single extension of the time limit for approval of a final site plan for further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a likelihood of commencing construction within the one (1) year extension.

Section 5.3 SPECIAL LAND USES

Refer to Section 6.4 of this Ordinance for information concerning Special Use Requests.

Section 5.4 STANDARDS FOR SITE PLAN APPROVAL

The Planning Commission shall consider the following standards, and any other appropriate Village ordinances, when reviewing a site plan:

- A. All site plan elements shall be designed in consideration of the site's topography, the parcel size, the character of adjoining property, and the type and size of buildings.
- B. The site plan shall meet all ordinance requirements pertaining to minimum lot size, setbacks, lot

width, parking, sign location, sign size, number of signs, etc.

- C. The site plan shall conform to all applicable building codes, wetland protection standards and other applicable county, state or federal regulations.
- D. The site plan shall complement development or improvement of surrounding property envisioned in the Village Master Plan.
- E. Existing vegetation and topography shall be preserved so far as practical.
- F. The site plan shall provide reasonable and visual and sound privacy for all dwelling units. Fences, walks, barriers and landscaping shall be used, as appropriate, to accomplish these purposes.
- G. All buildings or groups of buildings shall be arranged as to permit necessary emergency vehicle access as required by the Fire Department.
- H. A pedestrian circulation system which is separated from the vehicular circulation system may be required to ensure public safety. Special pedestrian measures such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, shopping areas and other uses which generate a considerable amount of pedestrian traffic.
- I. Driveways shall be located and designed to maximize sight distance and minimize disruptions on public streets. The number of driveways shall be the minimum needed to provide reasonable access to the site.
- J. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate water, prevent erosion and the formation of dust. Surface areas on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas.
- K. All loading and unloading areas and outside storage areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by an opaque wall or landscaped screen not less than six (6) feet in height.
- L. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

Section 5.5 AMENDMENTS TO APPROVED SITE PLANS

- A. Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendments to such approved plan prior to any changes in construction. The Zoning Administrator may approve a revised site plan and the standards of the zoning district. The Zoning Administrator shall notify the Planning Commission of the approved change in writing. The Zoning Administrator may refer minor site plan amendments and shall refer all major site plan amendments to the Planning Commission for review as described above.

Section 5.6 APPEALS OF FINAL SITE PLANS

- A. Any person aggrieved by the decision of the Planning Commission in granting or denial of a final

site plan approval shall have the right to appeal the decision to the Village Board of Appeals. The aggrieved party must allege and prove to the satisfaction of the Board of Appeals that they have suffered some special damages not common to other property owners similarly situated. The mere increase traffic in the area, general economic issues or applicant's current ownership of adjacent property are not sufficient to show special damages. The appeal shall be filed with the Village Clerk and state the aggrieved party's grounds for appeal within five (5) days of the decision of the Planning Commission.

- B. On hearing such appeal, the Board of Appeals shall review the record before the Planning Commission and shall determine whether or not there was support on the record for the original decision. The appellant shall not have the right to present new evidence, but shall be bound by the record before the Planning Commission. The Board of appeals shall determine if there exists significant reason to have the Planning Commission re-examine the site plan. If the Board sends the application back to the Planning Commission, they shall also send a detailed record of their findings and reasons for their action.

**ARTICLE VI
VILLAGE PLANNING COMMISSION**

Section 6.0 ORGANIZATION

The Planning Commission shall consist of five (5) members, who shall be representative of major interests as they exist in the Village, including such as agriculture, recreation, public health, government, commerce, transportation and industry. All members of the Planning Commission shall be appointed by the Village Supervisor with the approval of the Village Council. Members may be removed by the Village Supervisor, after a hearing, with the approval of the Village Council.

The term of each member shall be for three (3) years, except that of the members first appointed, 1/3 shall serve for one (1) year, 1/3 for two (2) years and 1/3 for three (3) years. A successor shall be appointed not more than one (1) month after the term of the preceding commission member has expired. All vacancies for unexpired terms shall be filled for the remainder of such term.

Section 6.1 MEETINGS

The planning commission shall hold a minimum of four (4) regular meetings annually giving notice of the time and place by publication in a newspaper of general circulation in such village not more than fifteen (15) days nor less than eight (8) days prior thereto at which meeting any person having interests in the village of their duly appointed representatives, shall be heard relative to any matters that should properly come before the Planning Commission. The Planning Commission shall elect from its members a chairman, a secretary and such other officers or committees as it may deem necessary and may engage such employees including technical assistants for periods of one (1) year or less as it may require. The election of officers shall be held at least once every year.

Section 6.2 RESPONSIBILITIES

It shall be the responsibility of the Planning Commission to implement and maintain the Village Master Plan, oversee the enforcement of this Ordinance, conduct site plan review, hold public hearings related to the Village Council concerning those amendments, and make decisions concerning special use requests in any zoning district.

Section 6.3 COMPENSATION

Members of the Planning Commission may be compensated for their services as provided by the Village Council. The Planning Commission may make and administer regulations relative to compensation for the travel of its members and employees when engaged in the performance of activities authorized by the Planning Commission, including attendance at conferences and meetings. The Planning Commission shall prepare a detailed budget and submit same to the Village Council for approval or disapproval. The Village Council annually may appropriate and make available funds for carrying out the purposes and functions permitted under this Act, and may match village funds with federal, state, county or other local government or private grants.

The Village Council may accept and use gifts and grants for Planning Commission purposes. Money so accepted shall be deposited with the Village Treasurer in a special nonreverting Planning Commission fund for expenditures by the Planning Commission for the purpose designated by the donor. The Village Treasurer shall draw warrants against the special nonreverting fund only upon vouchers signed by the chairman and secretary of the Planning Commission and upon orders by the Village Clerk. The expenditures of the Planning Commission, exclusive of gifts and grants, shall be within the amounts

appropriated by the Village Council.

Section 6.4 SPECIAL USE REQUESTS

For special land uses requiring approval of the Village Planning Commission, as noted in Article IV, the Commission shall also review a site plan or sketch plan to be submitted with the application. The Planning Commission shall then approve, approve with conditions or deny the submitted site plan. Reasons for denial shall be set forth in writing. The applicant shall be provided with a copy of the Planning Commission action concerning the site plan review.

- A. The Planning Commission shall approve, or approve with conditions, a special land use permit request only upon a finding that all of the following general standards for approval are complied with:
 - 1. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.
 - 2. The use is, or will be as a result of the land use permit, served adequately by public services and facilities, including, but not limited to streets, police and fire protection, drainage structures, refuse disposal, water and sewer facilities and schools.
 - 3. The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
 - 4. The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources and energy.
- B. The decision of the Planning Commission shall be incorporated in a statement of conclusions specifying the basis of the decision and any conditions imposed. The decision and statement of conclusions, including conditions imposed on any approval, shall be kept and made a part of the minutes of the Planning Commission.
- C. The Planning Commission may impose reasonable conditions in conjunction with approval of a special land use permit which are deemed necessary to ensure compliance with the spirit and intent of this Ordinance. Conditions shall be imposed in a manner in accordance with the Village or Zoning Act.

**ARTICLE VII
ZONING BOARD OF APPEALS**

Section 7.0 CREATION AND MEMBERSHIP

There is hereby created a Zoning Board of Appeals, herein referred to as the “Board of Appeals”, the membership, powers and duties of which are prescribed in this chapter.

Section 7.1 ORGANIZATION

The Board of Appeals for the Village of Ubyly shall be the same membership as the Village Council. In addition, not more than two (2) alternate members may be appointed by the Village Council. The alternate members of the Board of Appeals may be called as specific herein, to sit as regular members of the Board of Appeals in the absence of a regular member, if a regular member is absent from or unable to attend two (2) or more consecutive meetings of the Board of Appeals, or for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been called shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board of Appeals. The decision of whether an alternate member shall sit in the absence of a regular member shall be determined by the Chairman of the Board of Appeals, and if there is no Chairman, by a majority of the Board of Appeals’ members then in attendance at a duly called meeting of the same, and the records maintained by the Clerk of the Board of Appeals shall reflect the attendance and participation of any such alternate member.

Section 7.2 JURISDICTION

The Board of Appeals shall have all jurisdiction and powers granted by the Zoning Act, all jurisdiction and powers prescribed in other chapters of this Ordinance and the following specific jurisdiction and powers:

- A. To hear and decide appeals from and review any order, requirements, permit, decision or determination made by the Zoning Administrator or any other Village official in enforcing the provisions of this Ordinance. The Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, decision or determination as in the Board’s opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official from who the appeal is taken;
- B. To hear and decide matters referred to the Board of Appeals is required to pass under this Ordinance; and
- C. If there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance in passing on an appeal, to vary or modify any of the rules or provisions of this Ordinance relating to the construction, or structural changes in, equipment, or alterations of buildings or structures, so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

Section 7.3 GRANTING OF VARIANCES

No variance in the provisions or requirements of this Ordinance shall be authorized by the Zoning Board of Appeals unless it is found from the evidence that all of the following conditions exist:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question which are different than other properties in the same zoning district or result from conditions which do not exist throughout the Village of Ubyly.
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right and that the need for such variance was not created by the applicant. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- C. That the granting of such variance will not be of substantial detriment to adjacent property or materially impair the intent and purposes of this Ordinance or the public interest.

Section 7.4 APPLICATION AND HEARING PROCEDURES

- A. The following materials shall be filed with the Zoning Administrator before consideration of an appeal for variance or ruling by the Zoning Board of Appeals:
 - 1. A completed application form signed by the applicant or his/her agent. Applicants other than the owner of the property must submit evidence that the owner of the property is aware and approves of the application.
 - 2. Payment of a fee which shall be established by Resolution of the Village Council, and which shall be non-refundable.
 - 3. A legal description of the property involved in the request.
 - 4. A site plan, sufficient to show the nature and the extent of the requested variance.
- B. The Zoning Administrator shall transmit to the Zoning Board of Appeals all of the application materials and evidence relevant to the requested appeal. The Zoning Administrator shall take the actions necessary to place the appeal on the agenda of the Zoning Board of Appeals.
- C. Notice of the appeal shall be made in accordance with the procedures of the Zoning Act.
- D. Appellants for variances or other actions by the Zoning Board of Appeals shall be required to appear before the Board or be represented by a representative who can speak for and make commitments on behalf of the applicant.
- E. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board of Appeals is required to pass under a provision of this Ordinance, or to effect a variation from the requirements of this Ordinance, except that a concurring vote of two-thirds (2/3) of the members of the Board of Appeals shall be necessary to grant a variance from uses of land permitted in any Zoning District.

Section 7.5 CONDITIONS ON VARIANCE APPROVALS

The Zoning Board of Appeals may impose conditions upon an affirmative decision as provided in the Zoning Act.

Section 7.6 OFFICIAL RECORD-FINDINGS OF FACT

The Zoning Board of Appeals shall prepare an official record for all appeals and shall base its decision on this record. The official record shall include the following:

- A. The relevant administrative records and orders issued relating to the appeal.
- B. The notice of the appeal.
- C. Such documents, exhibits, photographs or written reports as may be submitted to the Zoning Board of Appeals for its consideration.
- D. The Resolution of the Zoning Board of Appeals stating the conclusions of the Board relative to the appeal, the basis for the decision and any conditions imposed.

Section 7.7 DECISIONS OF THE ZONING BOARD OF APPEALS

- A. The decision and orders of the Zoning Board of Appeals in disposing of the appeal shall be entered in the official record after they have been signed by the Chairman and after written notice of the disposition has been served either in person or by mail, upon the parties to the appeal, the Village Zoning Administrator and the Village Clerk. The Chairman shall sign the necessary orders to effectuate the decision within ten (10) days after the Zoning Board of Appeals reaches its final decision.
- B. The decision and orders of the Zoning Board of Appeals shall become effective five (5) days after the decision and orders are entered on the official record unless the Board shall find immediate effect is necessary to preserve property or personal rights and shall so certify on the record.
- C. A copy of the official record of the appeal shall be made available to the parties to any appeal upon request and after payment of a reasonable fee, as set by the Village Council, sufficient to recover the costs of duplicating such material.
- D. If the Zoning Board of Appeals grants a variance to the appellant, such variance shall be exercised (construction commenced and actively continued) within six (6) months from the date of such action, unless more time is specifically granted by the Zoning Board of Appeals.

Section 7.8 STAY OF PROCEEDINGS

An appeal to the Zoning Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after notice of appeal shall have been filed that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Zoning Board of Appeals or by the Circuit Court on application, after notice to the Zoning Administrator.

Section 7.9 APPEAL OF DECISIONS

The decision of the Zoning Board of Appeals shall be final, provided that the Board may, on its own motion or at the request of any interested party, at any time subsequent to a decision on an appeal, grant a rehearing. In such case, notice of rehearing shall be given in accordance with the Zoning Act. Any person having an interest affected by a final decision on the appeal shall have the right of appeal to the Circuit Court as provided by the Zoning Act.

**ARTICLE VIII
ADMINISTRATION AND ENFORCEMENT**

Section 8.0 ZONING ADMINISTRATOR

- A. Where the provisions of this Ordinance authorize or direct the Zoning Administrator to perform any act or carry out any function, such act or function may also be carried out by a deputy or deputies designated by the Zoning Administrator.
- B. The Zoning Administrator shall have the power to grant certificates of zoning compliance and to make inspections of premises necessary to carry out his duties in the enforcement of this Ordinance, and to otherwise carry out the duties assigned herein.
- C. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with, or prevent violations of its provisions.

Section 8.1 ZONING ORDINANCE AMENDMENTS, INITIATION

- A. All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least thirty (30) days prior to the first consideration by the Village Planning Commission.
- B. Requests for amendments to the Zoning Ordinance may be initiated in writing by the owner of the property requested for rezoning, or his agent, the Planning Commission or the Village Council. In the case of an amendment requested by the owner of the property requested for rezoning, or his agent or designated representative, the request shall include the following:
 - 1. The name and address of the person making the request and of all persons having a legal or equitable interest in any land which is requested to be rezoned;
 - 2. The nature of, reason for and effect of the requested amendment;
 - 3. If the requested amendment would require a change in the zoning map, a full dimensioned map showing the land which would be affected by the requested amendment, a legal description of such land and the present zoning district of such land.

Section 8.2 AMENDMENT PROCEDURE

After initiation, amendments to this Ordinance shall be considered as provided in the Zoning Act.

Section 8.3 ZONING COMPLIANCE PERMITS

- A. No building permit shall be issued for the construction, erection, alteration, expansion, moving or repair of any building or other structure until a certificate of zoning compliance has been issued. Issuance of such a certificate shall indicate that the use and plans for which the permit is requested comply with this Ordinance.
- B. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure or premises, or part thereof or hereafter created, erected, changed, converted, or wholly or partly

altered or enlarged in its use or structure, as permitted under the terms of this Ordinance, until a certificate of zoning compliance shall have been issued hereunder by the Zoning Administrator. The certificate shall state that the building, structure, and lot and use thereof, conform to the requirements of this Ordinance.

- C. The Zoning Administrator shall maintain a record of all certificates of zoning compliance.
- D. Certificates of zoning compliance authorize only the use, arrangement and construction set forth in the application and any appended plans, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and is punishable as provided by Section 8.4. Any change in approved plans shall occur only as provided for in this Ordinance and shall require the issuance of an amended certificate of zoning compliance.

Section 8.4 VIOLATIONS, ENFORCEMENT AND PENALTIES

A. Penalties:

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100) dollars and the costs of prosecution, or shall be punished by imprisonment in the county jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the costs of such prosecution.

1. A separate offense shall be deemed committed upon each day during or when a violation of this Ordinance occurs or continues.
2. The owner of record or tenant of any building, structure, premises, or part thereof, and any agent or person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
3. The imposition of any fine, or jail sentence, or both, shall not exempt the violator from compliance with the provisions of this Ordinance.
4. Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

B. Procedure:

The Zoning Administrator shall be authorized to issue and serve appearance tickets on any person with respect to any violation of this Ordinance when there is reasonable cause to believe that the person has committed such an offense. The Village, through its duly authorized attorney, may prosecute in a criminal proceeding any violation of this Ordinance. In addition, the Village, acting through its duly authorized attorney, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove any violation of this Ordinance.

C. Rights and remedies:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Section 8.5 ADMINISTRATIVE LIABILITY

No officer, agent, employee, or member of the Village Council, Planning Commission or Board of Appeals shall be personally liable for any damage which may accrue to any person or property as the result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 8.6 FEES

The Village Council shall periodically establish by resolution a zoning fee schedule, which shall specify those fees applicable to all permits, certificates, approvals, applications or appeals required by this Ordinance. All fees shall be paid to the Zoning Administrator, who shall promptly remit the same to the Village Treasurer. The fee schedule shall be posted on public display in the Village Hall and may be changed only by resolution of the Village Council. No permit, certificate, approval, application or appeal shall be issued or considered unless and until the fees therefore have been paid in full and payment of the required fee shall be a condition precedent to the validity of any permit, certificate or approval.