

# **MECOSTA COUNTY ZONING ORDINANCE**

## **TABLE OF CONTENTS**

<b>ARTICLE I PREAMBLE AND INTRODUCTION .....</b>	<b>6</b>
SECTION 1.0 SHORT TITLE .....	6
SECTION 1.1 CONFLICTING REGULATIONS .....	6
SECTION 1.2 SCOPE .....	6
SECTION 1.3 USE REGULATIONS .....	6
SECTION 1.4 USES NOT OTHERWISE SPECIFIED WITHIN A USE DISTRICT .....	6
SECTION 1.5 LAND REQUIRED TO SATISFY REGULATIONS .....	6
SECTION 1.6 PUBLIC UTILITY FACILITIES .....	6
SECTION 1.7 TOWNSHIPS SUBJECT TO COUNTY ZONING .....	7
<b>ARTICLE II ZONING DISTRICTS .....</b>	<b>8</b>
SECTION 2.0 ESTABLISHMENT OF DISTRICTS .....	8
SECTION 2.1 CREATION OF ZONING DISTRICTS .....	8
SECTION 2.2 ZONING MAP .....	8
SECTION 2.3 APPLICATION OF THIS ORDINANCE .....	8
SECTION 2.4 INTERPRETATION OF DISTRICT BOUNDARIES .....	8
SECTION 2.5 PERMISSIVE ZONING .....	9
SECTION 2.6 USES PERMITTED AS A RIGHT .....	9
SECTION 2.7 USES PERMITTED UNDER SPECIAL APPROVAL .....	9
SECTION 2.8 ZONING OF VACATED AREAS.....	9
SECTION 2.9 AG AGRICULTURAL (SPECIALIZED) DISTRICT .....	9
SECTION 2.10 AF AGRICULTURAL AND FORESTRY DISTRICT .....	11
SECTION 2.11 R-1 RURAL RESIDENTIAL DISTRICT .....	12
SECTION 2.12 R-2 SINGLE FAMILY RESIDENTIAL .....	13
SECTION 2.13 R-3 ONE AND TWO FAMILY RESIDENTIAL.....	14
SECTION 2.14 R-4 MULTIPLE FAMILY RESIDENTIAL DISTRICT .....	14
SECTION 2.15 MHP MANUFACTURED HOUSING PARK DISTRICT.....	16
SECTION 2.16 LR LAKE AND RIVER RESORT DISTRICT .....	24
SECTION 2.17 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT .....	25
SECTION 2.18 C-2 GENERAL COMMERCIAL DISTRICT .....	28
SECTION 2.19 C-3 HIGHWAY INTERCHANGE COMMERCIAL DISTRICT .....	32
SECTION 2.20 I-1 INDUSTRIAL DISTRICT.....	34
SECTION 2.21 LOT SIZE, BULK, AND PLACEMENT REGULATIONS.....	36
<b>ARTICLE III GENERAL PROVISIONS.....</b>	<b>38</b>
SECTION 3.0 INTENT .....	38
SECTION 3.1 GENERAL EXCEPTIONS .....	38
SECTION 3.2 EASEMENTS .....	38
SECTION 3.3 GRADES, ELEVATION DIFFERENTIALS .....	38
SECTION 3.4 OBSTRUCTIONS TO VISION ON CORNER LOTS .....	38
SECTION 3.5 FENCE, WALL AND PRIVACY SCREEN REGULATIONS .....	38
SECTION 3.6 REQUIRED WALLS, BERMS AND GREENBELTS FOR TRANSITIONAL PURPOSES .....	39
SECTION 3.7 OFF-STREET PARKING REQUIREMENTS.....	43
SECTION 3.7.1 GENERAL REQUIREMENTS .....	44
SECTION 3.7.2 TABLE OF OFF-STREET PARKING REQUIREMENTS .....	45
SECTION 3.7.3 (RESERVED FOR FUTURE USE).....	49
SECTION 3.7.4 OFF-STREET WAITING AREA AND STACKING SPACES FOR DRIVE-THRU FACILITIES .....	49

## *Table of Contents*

---

SECTION 3.7.5 OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION, AND MAINTENANCE .....	49
SECTION 3.7.6 OFF-STREET LOADING SPACE REQUIREMENTS.....	51
SECTION 3.8 STORAGE OF OBNOXIOUS MATTER IN OPEN CONTAINERS PROHIBITED. ....	52
SECTION 3.9 SOIL EXCAVATION OR FILLING.....	52
SECTION 3.10 OPEN STORAGE OR DUMPING ON LAND PROHIBITED .....	52
SECTION 3.11 COMMERCIAL VEHICLES IN RESIDENTIAL AREAS .....	53
SECTION 3.12 OUTDOOR STORAGE OF RECREATION AND OTHER VEHICLES AND EQUIPMENT IN SINGLE FAMILY RESIDENTIAL DISTRICTS.....	53
SECTION 3.13 ROAD FRONTAGE REQUIREMENTS (AMENDMENT 04-001) .....	53
SECTION 3.14 SIDEWALKS .....	53
SECTION 3.15 KEEPING OF FARM ANIMALS AND OTHER ANIMALS .....	54
SECTION 3.16 DUMPSTERS OR OUTDOOR TRASH RECEPTACLES.....	54
SECTION 3.17 SWIMMING POOL REGULATIONS .....	55
SECTION 3.18 PERFORMANCE STANDARDS. ....	55
SECTION 3.19 HOME OCCUPATIONS (AMENDMENT NO. 17-001) .....	57
SECTION 3.20 WIRELESS COMMUNICATIONS FACILITY REQUIREMENTS .....	59
SECTION 3.21 PRIVATE ROAD DESIGN AND GUIDELINES .....	64
SECTION 3.22 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES (AMENDMENT 14-009) .....	69
SECTION 3.23 TEMPORARY AND PORTABLE BUILDINGS, USES, AND STRUCTURES .....	73
SECTION 3.24 AIRPORT CLEARANCE .....	76
SECTION 3.25 SAW MILLS (AGRICULTURAL) .....	77
SECTION 3.26 ZONING PERMITS ISSUED PRIOR TO EFFECTIVE DATE.....	78
SECTION 3.27 RESTORATION OF UNSAFE BUILDINGS.....	78
SECTION 3.28 MOVING OF BUILDINGS .....	78
SECTION 3.29 EXCEPTIONS TO HEIGHT LIMITATIONS.....	79
SECTION 3.30 EXCEPTIONS TO AREA AND WIDTH REQUIREMENTS .....	79
SECTION 3.31 NUMBER OF BUILDINGS ON A LOT .....	79
SECTION 3.32 LOCATION OF DWELLINGS .....	80
SECTION 3.33 ILLEGAL DWELLINGS .....	80
SECTION 3.34 OTHER PROJECTIONS INTO YARDS.....	80
SECTION 3.35 ACCESS THROUGH YARDS .....	80
SECTION 3.36 VOTING PLACES.....	80
SECTION 3.37 UNSAFE AND UNGUARDED STRUCTURES .....	81
SECTION 3.38 ESSENTIAL PUBLIC SERVICES .....	81
SECTION 3.39 DRIVE-IN AND DRIVE-THROUGH ESTABLISHMENTS .....	81
SECTION 3.40 BED AND BREAKFAST ESTABLISHMENTS.....	82
SECTION 3.41 CONDOMINIUM DEVELOPMENT STANDARDS.....	85
SECTION 3.42 PLANNED UNIT DEVELOPMENT (PUD) .....	89
SECTION 3.43 SIGN REGULATIONS (AMENDMENT 16-003).....	99
SECTION 3.44 ACCESSORY STRUCTURES .....	110
SECTION 3.45 KEYHOLE DEVELOPMENT .....	111
SECTION 3.46 OPEN SPACE COMMUNITIES (AMENDMENT 04-008) .....	113
SECTION 3.47 MANUFACTURED HOUSING (AMENDMENT 06-002) .....	113
SECTION 3.48 BLIGHT CONTROL (AMENDMENT 06-011) .....	114
SECTION 3.49 MINI CABINS (AMENDMENT NO. 07-003, 15-003, 18-003).....	116
SECTION 3.50 WIND GENERATED ELECTRICAL ENERGY SYSTEMS (AMENDMENT 09-001) .....	116
SECTION 3.51 SOLAR ENERGY SYSTEMS (AMENDMENT 18-009) .....	119
<b>ARTICLE IV SITE PLAN REVIEW PROCEDURES AND STANDARDS .....</b>	<b>123</b>
SECTION 4.1 SITE PLAN REVIEW.....	123
<b>ARTICLE V SPECIAL LAND USE REVIEW PROCEDURES AND STANDARDS.....</b>	<b>133</b>
SECTION 5.1 SPECIAL LAND USE REVIEW .....	133

## *Table of Contents*

---

SECTION 5.2 PERFORMANCE GUARANTEES .....	136
SECTION 5.3 ZONING BOARD OF APPEALS (AMENDMENT 05-006).....	138
<b>ARTICLE VI NONCONFORMING USES AND STRUCTURES .....</b>	<b>139</b>
SECTION 6.0 INTENT .....	139
SECTION 6.1 DEFINITIONS .....	139
SECTION 6.2 NONCONFORMING LOTS .....	140
SECTION 6.3 NONCONFORMING USES OF LAND .....	140
SECTION 6.4 NONCONFORMING BUILDINGS AND STRUCTURES.....	141
SECTION 6.5 NONCONFORMING USES OF STRUCTURES .....	141
SECTION 6.6 GENERAL REQUIREMENTS .....	143
SECTION 6.7 CHANGE OF TENANCY OR OWNERSHIP.....	143
SECTION 6.8 ACQUISITIONS OF NONCONFORMING USES.....	143
<b>ARTICLE VII ZONING BOARD OF APPEALS.....</b>	<b>144</b>
SECTION 7.1 MEMBERSHIPS.....	144
SECTION 7.2 MEETINGS OF ZONING BOARD OF APPEALS.....	144
SECTION 7.3 POWERS OF ZONING BOARD OF APPEALS .....	144
SECTION 7.4 APPLICATION OF THE VARIANCE POWER.....	145
SECTION 7.5 CONCURRING VOTE, FINDINGS OF FACT, AND LIMITATIONS .....	146
SECTION 7.6 PROCEDURES FOR APPEALS TO THE BOARD .....	146
<b>ARTICLE VIII PERMITTING, ENFORCEMENT, AND PENALTIES .....</b>	<b>149</b>
SECTION 8.1 ZONING PERMIT .....	149
SECTION 8.2 CERTIFICATE OF COMPLIANCE .....	149
SECTION 8.3 PLATS .....	151
SECTION 8.4 ADMINISTRATION FEES.....	151
SECTION 8.5 VIOLATIONS AND PENALTIES .....	151
SECTION 8.6 PUBLIC NUISANCES .....	152
<b>ARTICLE IX DEFINITION OF TERMS .....</b>	<b>153</b>
SECTION 9.1 INTERPRETATION OF LANGUAGE.....	153
SECTION 9.2 DEFINITIONS .....	153
<b>ARTICLE X ZONING ADMINISTRATION .....</b>	<b>187</b>
SECTION 10.1 RESPONSIBILITIES.....	187
SECTION 10.2 COUNTY BOARD OF COMMISSIONERS.....	187
SECTION 10.3 COUNTY PLANNING COMMISSION .....	187
SECTION 10.4 ZONING BOARD OF APPEALS .....	189
SECTION 10.5 ZONING ADMINISTRATOR.....	189
<b>ARTICLE XI AMENDMENTS TO THE ZONING ORDINANCE .....</b>	<b>190</b>
SECTION 11.1 STATEMENT OF INTENT .....	190
SECTION 11.2 AMENDMENT PROCEDURE .....	190
SECTION 11.3 PROTESTS.....	192
SECTION 11.4 FEES .....	192
SECTION 11.5 COMPREHENSIVE REVIEW OF ORDINANCE.....	192
<b>ARTICLE XII INTERPRETATION, SEVERABILITY, VESTED RIGHT &amp; ENACTMENT .....</b>	<b>193</b>
SECTION 12.1 INTERPRETATION AND CONFLICT .....	193
SECTION 12.2 SEVERABILITY CLAUSE .....	193
SECTION 12.3 RULE OF CONSTRUCTION .....	193
SECTION 12.4 VESTED RIGHT .....	193

*Table of Contents*

---

SECTION 12.5 REPEAL OF EXISTING ZONING REGULATIONS..... 193

SECTION 12.6 SAVINGS CLAUSE..... 193

SECTION 12.7 ADOPTION CHRONOLOGY ..... 194

SECTION 12.8 EFFECTIVE DATE ..... 194

## **THE COUNTY OF MECOSTA ZONING ORDINANCE PREAMBLE**

An ordinance enacted under Act 183, of the State of Michigan Public Acts of 1943, to provide for the establishment in Mecosta County in those areas lying outside of incorporated cities and villages, districts or zones, within which the use of land and structures, the height, the area, the size, and location of buildings may be regulated by ordinance, and within which districts regulations shall be established for the light and ventilation of those buildings, and within which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property which does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for the establishment of a Board of Appeals; to provide for amendments, supplements, or changes hereto; to provide for conflict with the state housing code or other acts, ordinances, or regulations; and to provide penalties for the violation of the terms of this act.

## **ENACTING CLAUSE**

The legislative body of the County of Mecosta may regulate and restrict the use of land and structures; to meet the needs of the County's residents for natural resources, places of residence, recreation, industry, trade, service, and other use of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare, and for those purposes may divide the County into districts of the number, shape, and area considered best suited to carry out this Section. For each of those districts, regulations may be imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and other land uses or activities that shall be permitted or excluded or subjected to special regulations.

The land development regulations and districts authorized by this Ordinance shall be made in accordance with a plan designed to promote and accomplish the objectives of this Ordinance. The County of Mecosta ordains:

## **ARTICLE I PREAMBLE AND INTRODUCTION**

### **SECTION 1.0 SHORT TITLE**

This Ordinance shall be known and may be cited as the "Zoning Ordinance of Mecosta County, Michigan". Within the following text it may be referred to as the "Ordinance".

### **SECTION 1.1 CONFLICTING REGULATIONS**

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

### **SECTION 1.2 SCOPE**

No building or structure, or part thereof, shall hereafter be erected, constructed or altered, and no land use commenced or continued within the unincorporated parts of the county, contrary to the spirit of this Ordinance, except for the provisions of essential services or as specifically authorized by this Ordinance. Agricultural buildings must only meet the setback requirements for the District in which they are located, and are exempt from Public Act 230 of 1972, as amended (State Construction Code Act). Special Permit Uses are allowed only on permits granted by the County Planning Commission upon finding that specified conditions are met in accordance with Article V of this Ordinance.

### **SECTION 1.3 USE REGULATIONS**

Except as otherwise provided herein, regulations governing land and building use is hereby established in Article II covering each district. Uses permitted in each district after special approval shall be permitted only in accordance with the Special Approval standards and procedures of this Ordinance.

### **SECTION 1.4 USES NOT OTHERWISE SPECIFIED WITHIN A USE DISTRICT**

Uses which have not been specifically mentioned within any use district may be processed under the Special Use Permit procedure, in accordance to Article V. Such uses and related structures shall be subject to the area, height, bulk, and placement requirements for the District in which it is located.

### **SECTION 1.5 LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot used in or necessary for compliance with the provisions of this Ordinance shall through sale or otherwise, be reduced beyond said minimums or again be used to satisfy the zoning requirements of another lot.

### **SECTION 1.6 PUBLIC UTILITY FACILITIES**

When operating requirements necessitate the locating of public utility facilities and uses (without storage yards) within the district in order to serve the immediate vicinity, such facilities shall be permitted in all zoning districts, subject to Special Approval by the Planning Commission Article V, review and approval of the site plan, and a finding by the Planning Commission that the use is

compatible to the surrounding area and will not be injurious to the surrounding neighborhood and is not contrary to the spirit and purpose of this Ordinance.

**SECTION 1.7 TOWNSHIPS SUBJECT TO COUNTY ZONING**

Any township which properly enacts or has previously enacted a township zoning ordinance in accordance with the requirements of P.A. 183 of 1943, as amended, shall not be subject to this Ordinance.

## **ARTICLE II ZONING DISTRICTS**

### **SECTION 2.0 ESTABLISHMENT OF DISTRICTS**

Those portions of Mecosta County, Michigan, lying outside the limits of incorporated cities and villages are hereby divided into zoning districts, as named and described in the following sections:

### **SECTION 2.1 CREATION OF ZONING DISTRICTS**

For the purpose of this Ordinance, those portions of Mecosta County, Michigan lying outside the limits of incorporated cities and villages, shall be divided into the following zoning districts, which shall be known by the names and symbols here shown.

AG	Agricultural/Specialized
AF	Agricultural/Forestry
R-1	Rural Residential District
R-2	Single Family Residential District
R-3	One & Two Family Residential District
R-4	Multiple Family Residential District
MHP	Manufactured Home Park Residential District
LR	Lake/River Resort District
C-1	Neighborhood Commercial District
C-2	General Commercial District
C-3	Highway Interchange Commercial District
I-1	Industrial District

### **SECTION 2.2 ZONING MAP**

The boundaries of the Mecosta County zoning districts are shown on a map adopted by the County Board of Commissioners. The map shall be entitled "Mecosta County Zoning Map" and shall bear the date adopted or amended. It shall be the duty of the County Zoning Administrator and Clerk to authenticate such records by placing their official signatures thereon. Such map with all accompanying explanatory matter, is hereby made a part of this Ordinance and shall be, as such, a part of this Ordinance as if the matters and information set forth thereon were all fully described herein.

### **SECTION 2.3 APPLICATION OF THIS ORDINANCE**

Except as otherwise provided in this Ordinance, erection of buildings and uses of land shall conform to the specific provisions for the zoning districts involved. No land shall be redeveloped or use commenced, expanded or continued within the County except as specifically, or by necessary implication, authorized by this Ordinance. Lawful nonconforming structures and uses existing at the time of passage of this Ordinance are specifically governed by Article 6, and generally governed by this Ordinance.

### **SECTION 2.4 INTERPRETATION OF DISTRICT BOUNDARIES**

- A. Unless otherwise shown, the boundaries of the districts are lot lines, the centerlines of streets or alleys, or such lines extended, and the limits of Mecosta County.
- B. Where a district boundary line as shown on the Zoning Map, divides a lot which was in a single ownership of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the most restricted portion of such lot, under this Ordinance, shall be considered as extending to the entire lot.



- C. Where due to the scale, lack of detail or illegibility of the Zoning Map of this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted upon written request, or upon its own motion, by the Board of Appeals, after recommendation by the Planning Commission.
- D. Where a district boundary line follows a shoreline, such boundary shall be construed to be the shoreline. In the event of a change in the shoreline, the boundary line shall be construed to move with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be structured to follow such centerlines.

### **SECTION 2.5 PERMISSIVE ZONING**

Land uses are permitted specifically in the various zoning districts of this Ordinance. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted. No land contained within any zoning district within Mecosta County shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Article 6, Nonconformities.

### **SECTION 2.6 USES PERMITTED AS A RIGHT**

Permitted uses, as identified in Articles covering each district, are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the general provisions, parking regulations, district intent, permit, certificate and site plan requirements found elsewhere in this Ordinance, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions, unless otherwise indicated herein.

### **SECTION 2.7 USES PERMITTED UNDER SPECIAL APPROVAL**

The uses identified as special approval uses in Article 2 covering each district are recognized as possessing characteristics of such unique and special nature (relative to location, off-site impacts, design, size, public service, utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. Article 5 regarding procedure and requirements for special approval uses, shall apply to these uses.

### **SECTION 2.8 ZONING OF VACATED AREAS**

Whenever any street, alley or other public way within the County shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it is attached.

### **SECTION 2.9 AG AGRICULTURAL (SPECIALIZED) DISTRICT**

- A. Intent. To maintain for agricultural purposes those lands which because of their soil characteristics, drainage, and other factors are especially suitable for farming, dairying, forestry operations, and other similar agriculture operations; and to insure that uses within this district are retained for agricultural purposes. And to further insure that agricultural lands are unimpeded by the establishment of incompatible uses of land which would hinder agricultural practices, and irrevocably deplete essential agricultural lands.
- B. Permitted Uses.
  - 1. Agricultural use or purpose as a means of, or pertaining to, or connected with, or engaged in agriculture or tillage which is characterized by the act or business of cultivating or using land and

soil for the production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture (including state licensed wineries), and animal and poultry husbandry. May include the direct sale of agricultural products grown or produced upon the premises and/or farm related activities. (*amendment #11-002*)

2. Sales and service of machinery used for agricultural production;
  3. Facilities for bulk storage and retail sales of products essential for agricultural production including feed mills;
  4. Veterinary facilities, services and kennels;
  5. Accessory structures as regulated in Section 3.44
  6. Single-family dwellings with a minimum width of 14 feet.
  7. Farmsteads; Single-family dwellings which serve as the principal residences for the owner, operator and employees of the farm and their immediate families.
  8. One non-farm related single-family dwelling per 40 acres or fraction of the total farm unit, provided the Zoning Administrator finds that the location of the dwelling complies with Section 2.21.
  9. Mineral extraction.
  10. State approved hunting preserves. (*amendment #07-002*)
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission:
1. Mineral processing;
  2. Licensed small aircraft landing fields;
  3. Churches, cemeteries;
  4. Saw mills as regulated by this Ordinance;
  5. Butcher shops,  
  
Foster care homes and similar residential care facilities for seven or more *residents* (*Amendment No. PA02-001*) including child care facilities, permanent agricultural labor camps in compliance with Public Act 289 of 1965;
  6. Permanent roadside sales of farm produce not grown mainly on the farm.
  7. Home Occupations subject to Section 3.19 of this Ordinance.
  8. Bed and Breakfast
  9. Trucking and excavation operations (*amendment #11-001*)
  10. Agricultural Tourism (*amendment #14-003*)

All special uses shall comply with all the provisions of Article 5 and in addition, the Planning Commission shall find that all non-farm uses shall meet the following specific standards:

1. Situated upon lands which are less suitable for agricultural production than other lands within the AG district. This determination shall be based on a comparative analysis of natural, as well as economic factors.
2. Situated so as to minimize the amount of land or area converted to the proposed use.
3. Situated so as to minimize disruption of ongoing agricultural operations within the district.
  - a. Direct access to an improved county road.
  - b. Will not create a situation which will promote soil erosion or danger to public health.

**D. District Regulations.**

1. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance, except the minimum setback requirements for all nonresidential structures shall be 50 feet from all property lines and road rights-of-way.

**SECTION 2.10 AF AGRICULTURAL AND FORESTRY DISTRICT**

A. Intent. To establish and maintain low density rural areas which because of their rural character and location, accessibility, natural characteristics and the potentially high costs of providing public services for intensive uses are suitable for a wide range of agricultural, forestry, natural resources and recreational uses.

**B. Permitted Uses.**

1. All “permitted uses” identified in the AG District. (*amendment #11-003*)
2. Single-family dwellings with a minimum width of 14 feet.
3. Farmsteads; Single-family dwellings which serve as the principal residences for the owner, operator and employees of the farm and their immediate families.
4. One non-farm related single-family dwelling per 40 acres or fraction of the total farm unit, provided the Zoning Administrator finds that the location of the dwelling complies with Section 2.21.
5. Churches;
6. Mineral extraction;
7. Camps, campgrounds and day camps;
8. Passive sport facilities including stables, hiking and bicycle riding trails, golf courses, accessory swimming pools and other similar low intensity recreational activities;
9. Kennels, veterinary facilities, fur farms;
10. Accessory structures as regulated in Section 3.44.
11. State approved hunting preserves. (*amendment #07-002*)
12. Trucking and excavation operations (*amendment #11-001*)

- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5.
1. Outdoor recreational facilities including, but not limited to, motorized vehicle racing tracks and courses, commercial campgrounds and shooting ranges; (*amendment #07-002*)
  2. Sales and service of farm machinery;
  3. Agricultural saw mills;
  4. Livestock slaughtering, processing, and butcher shops;
  5. Foster care homes and similar residential care facilities for seven or more residents (*Amendment No. PA02-001*) including child care facilities;
  6. Road side sales of produce not grown mainly on the farm;
  7. Taxidermy and fur dressing;
  8. Home occupations subject to Section 3.19 of this Ordinance.
  9. Mineral processing;
  10. Bed and Breakfast;
  11. Cemeteries; (*amendment #10-007*)
  12. Agricultural Tourism (*amendment #14-003*)
- D. District Regulations.
1. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance, except the minimum setback requirements for all nonresidential structures shall be 50 feet from all property lines and road rights-of-ways.

## **SECTION 2.11 R-1 RURAL RESIDENTIAL DISTRICT**

- A. Intent. To establish and maintain a low density rural residential environment for single-family dwellings which are similar in construction standards, permanency, living area, preservation of property values and economic stability; and are in accessible areas free from small lot residential subdivisions which may require additional public facilities and services beyond the traditional rural level of governmental services.
- B. Permitted Uses:
1. Single-family dwellings with a minimum width of 14 feet
  2. Churches, schools, and park areas
  3. Farming; agricultural production; and establishments operated as bona fide greenhouses, nurseries, orchards, state licensed wineries, chicken hatcheries, poultry farms, and apiaries. (*amendment #11-004*)
  4. Accessory structures as regulated in Section 3.44.

5. The personal use and care of equine animals on parcels of five (5) acres or more in size. Boarding stables, show arenas or race tracks are not permitted.
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5:
  1. Cemeteries; (*amendment #10-007*)
  2. Golf courses, private parks, country clubs, and similar recreational uses;
  3. Nursery sales and garden shops;
  4. Foster care homes and similar residential care facilities for seven or more residents (*Amendment No. PA02-001*) including child care facilities; for the care of up to twelve (12) residents;
  5. Bed and breakfast operations;
  6. Child day care facilities for the care of up to twelve (12) children.
  7. Kennels
- D. District Regulations: All uses shall be subject to the lot size, bulk, and placement standards for the R-1 District identified in Section 2.21 of this Ordinance, except the minimum setback requirements for all nonresidential structures shall be 50 feet from all property lines and road rights-of-ways.

## **SECTION 2.12 R-2 SINGLE FAMILY RESIDENTIAL**

- A. Intent. To establish and preserve quiet single-family residential neighborhoods, as desired by large numbers of people, which are similar in terms of construction standards, permanency, living area, preservation of property values and economic stability; and convenient to residents of such a district. The R-2 District is characterized by smaller lots, suburban road design and subdivision residential layout.
- B. Permitted Uses.
  1. Single-family dwellings with a minimum width of 22 feet
  2. Accessory structures as regulated in Section 3.44.
  3. Park areas.
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5;
  1. Schools, churches and cemeteries; (*amendment #10-007*)
  2. Public and private parks, swimming pools and public recreational facilities;
  3. Bed and breakfast operations as regulated by Section 3.40 of this Ordinance
  4. Home occupations as regulated by Section 3.19 of this Ordinance.
- D. District Regulations.

1. All uses shall be subject to the lot size, bulk, and placement standards for the R-2 District identified in Section 2.21 of this Ordinance.
2. All dwellings shall be firmly attached to a permanent foundation and skirted with concrete/masonry material.

**SECTION 2.13 R-3 ONE AND TWO FAMILY RESIDENTIAL**

- A. Intent. To establish and preserve quiet neighborhoods for single-family and two family dwellings free from other uses except those which are both compatible with and convenient to the residents of such a district.
- B. Permitted Uses.
1. Single-family dwellings with a minimum width of 14 feet
  2. Duplexes
  3. Accessory structures as regulated in Section 3.44.
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5;
1. Churches, schools and cemeteries; (*amendment #10-007*)
  2. Golf courses, private parks, country clubs, and similar recreational uses;
  3. Nursery sales and garden shops;
  4. Foster care homes and similar residential care facilities for seven or more residents (*Amendment No. PA02-001*) including child care facilities; for the care of up to twelve (12) residents;
  5. Bed and breakfast operations;
  6. Child day care facilities for the care of up to twelve (12) children;
  7. Public and private parks, swimming pools and public recreational facilities
- D. District Regulations: All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance.

**SECTION 2.14 R-4 MULTIPLE FAMILY RESIDENTIAL DISTRICT**

- A. Intent. To establish and preserve neighborhoods for medium density and multiple family residential uses, free from other uses except those which are both compatible with and convenient to the residents of such a district.
- B. Permitted Uses.
1. Single-family dwellings with a minimum width of 22 feet,
  2. Duplexes and multiple-family dwellings,
  3. Nursing homes
  4. Accessory structures as regulated in Section 3.44.

C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5;

1. Churches, schools and cemeteries; (*amendment #10-007*)
2. Golf courses, private parks, country clubs, and similar recreational uses;
3. Nursery sales and garden shops;
4. Foster care homes and similar residential care facilities for seven or more residents (*Amendment No. PA02-001*) including child care facilities; for the care of up to twelve (12) residents;
5. Bed and breakfast operations;
6. Child day care facilities for the care of up to twelve (12) children;
7. Public and private parks, swimming pools and public recreational facilities

D. District Regulations.

1. The following design standards are required for all multi-family residences:
2. Minimum land area required for each dwelling unit shall be as follows:

<u>Dwelling Unit Type</u>	<u>Apts.</u>	<u>Land Area Required</u> <u>Townhouse/Condo</u>
Efficiency or one bedroom unit	3,000 sq. ft.	4,200 sq. ft.
Two bedroom unit	4,200 sq. ft.	5,100 sq. ft.
Three bedroom unit	5,100 sq. ft.	5,700 sq. ft.
Four or more bedroom units	5,700 sq. ft.	6,000 sq. ft.

3. Maximum density shall be 12 units per acre.
4. Main access shall be from a paved county primary road, access onto local roads shall be minimized. Interior roads shall be paved.
5. The water supply and sewage disposal system shall be public or shall be sufficiently controlled by the applicant to meet public health standards, and to insure adequate protection to the surrounding ground water supplies. All services and utilities shall be underground and subject to County Health Department review and approval.
6. The parcel shall have a minimum landscaped open space of thirty (30) percent; minimum of twenty (20) percent of that open space area shall be improved for recreational activities.
7. Screening shall be provided along all common single-family residential boundaries in accordance with Section 3.5 or 3.6.
8. All refuse containers shall be located on concrete stands, abutting and level with a driveway, which shall be screened, except on the driveway side, by a wood or masonry fence or wall at least six feet high.
9. Single-family and duplex uses shall comply with the lot size, lot width and setback requirements for the R-3 District as indicated in Section 2.21.

10. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance.
11. All dwellings shall be firmly attached to a permanent foundation and skirted with concrete/masonry material.

**SECTION 2.15 MHP MANUFACTURED HOUSING PARK DISTRICT**

A. Statement of Intent. The MHP, Manufactured Housing Park District is intended to provide for the location and regulation of manufactured housing parks as an affordable housing alternative where appropriate and consistent with the general character of Mecosta County. It is intended that manufactured housing parks be provided with necessary community services in a setting that provides a high quality of life for residents. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured housing parks shall be located in accordance with the following criteria:

1. In areas that are designated for manufactured housing parks as outlined in the Mecosta County Master Plan.
2. On sites adjacent to existing manufactured housing parks and parcels zoned MHP zoning classification.
3. On sites with direct vehicular access to a paved public thoroughfare or collector road.
4. In areas where sanitary sewer and potable water supply (either public or private systems) is available with sufficient capacity to serve the residents and to provide fire protection capabilities.
5. On sites outside of a designated floodway.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all manufactured housing parks. When regulations in this Section exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that manufactured housing parks meet the development and preliminary plan standards established by this Section for other comparable residential development and to promote the health, safety and welfare of the county's residents.

These specific standards reflect the nature of Mecosta County in contrast with some other areas of Michigan where the universal rules of the Manufactured Housing Commission may be appropriate. These standards encourage development which compliments and protects the investment on adjacent properties, and promotes preservation of important natural features.

Since the characteristics and impacts of a manufactured housing park typically simulate those of multiple-family residential developments, and because they typically are served by private streets and utility systems which interrupts and intercepts the continuity of the local street and utility systems, manufactured housing parks are not considered compatible with other types of single-family neighborhoods. Therefore, manufactured housing parks are intended to serve as a transitional use between residential and nonresidential districts, similar to the multiple family districts.

- B. Permitted Uses. In all areas zoned MHP, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:
1. Manufactured housing parks;
  2. Adult care and child care facilities that provide care for up to six (6) individuals;



3. Essential services, provided there is no building or outdoor storage yard;
  4. Uses and structures accessory to the above, subject to the provisions in this Section. Permitted accessory uses and structures include, but are not necessary limited to: parks, open space, and recreation facilities for the use of residents and their guests; one (1) office building for the exclusive purpose of manufactured housing park business; utility and storage buildings for use of residents; garages and carports; and signs.
- C. Uses by Special Permit. The following uses may be permitted subject to: the conditions specified for each use in Article 5, Special Use Permits; review and approval of the Preliminary Plan by the Planning Commission; any special conditions imposed by the Planning Commission that are necessary to fulfill the purposes of this Section; and the provisions set forth in Article 5, Special Use Permits.
1. Mini-warehouses, subject to the provisions in Article 3, General Provision Standards.
  2. Adult care and child care facilities that provide care for more than six (6) individuals.
- D. Development Standards and Requirements.
1. Preliminary Plan Review. Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the County for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the applicant and Planning Commission shall follow the procedures and requirements in Article 4, Preliminary Plan Review, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within sixty (60) days after the county officially receives the plan.

Applicants may request to meet with County staff, including any consultants designated by the County Board of Commissioners, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other comments made by County officials, staff or consultants at such conferences shall constitute approval of any application.
  2. Minimum Requirements. Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:
    - a. General Authority. Manufactured housing parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured housing parks. Application for permit to construct a manufactured housing park shall be submitted to the Michigan Bureau of Construction Codes. The Department of Consumer and Industry Services is the agency charged with licensing of manufactured housing parks. Preparation of the application, support data, and local agency review of the above mentioned materials shall conform to the requirements of Act 96.

- b. Codes. All structures and utilities to be constructed, altered, or repaired in a manufactured housing parks shall comply with all applicable codes of the County, the State of Michigan, the U.S. Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured housing unit built prior to June 15, 1976, which otherwise meets HUD certification requirements and standards for construction shall be permitted. All structures and improvements to be constructed or made under the State Building Code shall have a building permit issued therefore by the County Building Official prior to construction.
- c. Parcel Size. The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.
- d. Site Size. The manufactured housing parks shall be developed with sites having a minimum size of five-thousand-five-hundred (5,500) square feet per manufactured housing unit. This square foot minimum for any one site may be reduced twenty (20) percent provided that the individual site shall be equal to at least four-thousand-four-hundred (4,400) square feet. For each square foot of land gained through the reduction of a site below the required standard, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the open space required by this Section and under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code. However, in no case shall the open space and distance requirements be less than that required under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.
- e. Dimensional Requirements. Manufactured housing units shall comply with the following minimum distances and setbacks:
  - a) Ten (10) feet from any part of an adjacent manufactured housing unit (fifteen (15) feet if the home is sited parallel to an internal road).
  - b) Ten (10) feet from any on-site parking space of an adjacent manufactured housing unit site.
  - c) Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured housing unit.
  - d) Fifty (50) feet from any permanent building.
  - e) One hundred (100) feet from any baseball, softball, or similar recreational field.
  - f) Fifteen (15) feet from the edge of an internal road.
  - g) Seven (7) feet from any parking bay.
  - h) Seven (7) feet from a common pedestrian walkway.
  - i) All manufactured housing units shall be set back not less than twenty-five (25) feet from any park boundary line, including the existing and future rights-of-way lines of abutting streets and highways. Accessory buildings shall meet the setback requirements as established by this Ordinance for residential districts.
  - j) Forty (40) feet from the edge of any railroad right-of-way.

- f. **Building Height.** Buildings in the MHP district shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.
- g. **Roads.** Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:
  - a) Two-way streets shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted on one side only, and forty-one (41) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
  - b) One-way streets shall have a minimum width of thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted on one side only, and thirty-three (33) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
  - c) The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule 908 and Rule 47 of the Michigan Department of Environmental Quality standards.
  - d) Cul-de-sacs, where proposed shall have a minimum radius of thirty (30) feet (60 ft. in diameter). Maximum cul-de-sac length shall be one-thousand (1,000) feet, provided no more than thirty-five (35) units may be served by a single means of access. A dead end road shall terminate with an adequate turning area. A blunt-end road is prohibited.
  - e) Adequate sight distance shall be provided at all intersections.
  - f) The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
  - g) All roads shall be clearly marked with appropriate identification and traffic control signs. The name of any streets or roads shall be approved by Mecosta County.
  - h) All roads shall be hard-surfaced and may be constructed with curbs and gutters.
- h. **Parking.**
  - a) All manufactured housing sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules 925 and 926.
  - b) In addition, a minimum of one (1) parking space for every three (3) manufactured housing sites shall be provided for visitor parking located convenient to the area served.
  - c) Off-street parking, in accordance with Section 3.7 of this Ordinance, shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
  - d) No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.

- e) Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing parks, but shall be limited to use only by residents of the manufactured housing parks. The location of such storage areas shall be shown on the Preliminary Plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured housing parks. Such storage area shall be surfaced with gravel, asphalt or similar substance and shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Common laundry drying areas, trash collection stations, surface mounted transformers, and similar equipment and facilities shall also be screened from view by plant material and/or man-made screens.
- i. Sidewalks. Concrete sidewalks having a minimum width of three (3) feet shall be provided on at least one side of collector roads in the manufactured housing park. In addition, a five (5) foot wide concrete sidewalk shall be constructed along the public road(s) on which the manufactured housing park fronts. Such sidewalk shall be located within the road right-of-way, one foot off of the right-of-way line.
- j. Accessory Buildings and Facilities.
  - a) Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only and shall be shown on the submitted Preliminary Plan for approval.
  - b) Site-built structures within a manufactured housing park shall be constructed in compliance with the Mecosta County Building Codes and shall require all applicable permits. Any addition to a manufactured housing unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the Mecosta County Building Codes.
  - c) No personal property shall be stored outside or under any manufactured home. Storage structures (e.g., sheds, garages, etc.) may be used to store personal property on site. The installation of any such shed or garage shall require a Mecosta County building permit. Storage sheds need not be supplied by the owner or operated of the manufactured housing park.
  - d) Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.
  - e) Towing mechanisms, including tires, shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
- k. Open Space. Open space shall be provided in any manufactured housing park containing fifty (50) or more manufactured housing sites, and maintained by the owner or operator of the park. The open space shall comply with the following requirements:

- a) A minimum of two (2) percent of the park's gross acreage shall be dedicated to well drained, usable open space developed with appropriate recreational facilities and play equipment, provided that a minimum of twenty-five-thousand (25,000) square feet of contiguous open space.
- b) Open space shall be shaped and located conveniently in relation to the majority of dwelling units intended to be served. Up to twenty-five (25) percent of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.

1. Landscaping and Screening.

- a) Perimeter Screening. All manufactured housing parks shall be screened from existing adjacent residential uses by either a six (6) foot wall or a densely planted landscaped greenbelt. In addition a landscaped buffer shall be provided along the public road frontage of any manufactured housing park.
  - 1) If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
  - 2) If a landscaped greenbelt is used, it shall be a minimum of twenty (20) feet in width and consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can form a complete visual barrier that is at least six (6) feet above ground level at maturity, or at least three (3) feet above ground level at planting. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
- b) Landscaping Adjacent to Rights-of-Way. A landscaped berm measuring three (3) feet in height along a landscaped greenbelt shall be constructed along the public rights-of-way on which the manufactured housing park fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Landscaping adjacent to the road shall comply with the following requirements, which are consistent with landscaping required for other types of development in Mecosta County:

Type	Requirements
Deciduous street tree (e.g. Red or Norway Maple, Linden, Ash)	1 per 40 lineal feet of road frontage
Deciduous or evergreen shrubs	1 per 3 lineal feet of road frontage

- c) Site Landscaping. A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
- d) Parking Lot Landscaping. Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one-hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.

- m. Canopies. Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sunroom or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Section but shall not require a building permit unless fully enclosed or exceeding ten (10) foot by ten (10) foot in size.
- n. Waste Receptacles. If proposed, waste receptacles shall comply with the following requirements as well as Part 5 of the MDEQ Standards for waste receptacles:
  - a) Receptacles shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured housing park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle. Receptacles shall be provided within one-hundred-fifty (150) feet of each manufactured housing unit, unless curb-side collection is provided.
  - b) Receptacles shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other sides.
  - c) Receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.
- o. Signs.
  - a) Each manufactured housing park shall be permitted either:
    - 1) Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or
    - 2) One (1) sign which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.
  - b) Management offices and community buildings in a manufactured housing park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.
- p. Water and Sewer Service. All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Mecosta County Health Department and the Michigan Department of Public Health. Public sewer systems shall be required in manufactured housing parks, if available within two-hundred (200) feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. The plumbing connections to each manufactured housing site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.
- q. Storm Drainage. All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, independent of sanitary sewers, designed and constructed in accordance with applicable local, county, and state regulations as outlined in Part IV of the MDEQ Standards. On-site storm water detention facilities may be required.

- r. Underground Wiring and Utilities. All local distribution lines for franchised utilities, including but not limited to telephones, electrical service, and cable television, shall be placed entirely underground throughout mobile home parks. Mainlines and perimeter feed lines located on a Section or Quarter Section Line may be above ground if they do not overlap the park. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.
- s. Fuel Oil and Gas. Any fuel oil and gas storage shall be located in underground tanks, at a safe distance from all manufactured housing sites. All fuel lines leading to manufactured housing sites shall be underground and designed in conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.
- t. School Bus Stops. School bus stops shall be located in an area that is acceptable to the local school district and the manufactured housing park developer.
- u. Mailbox Clusters. The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing park road with a public road.
- v. Manufactured Housing Unit Sales. The business of selling new or used manufactured housing as a commercial operation shall not be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing community may be sold by the resident, owner, licensed dealer or broker, provided the manufactured housing development management permits such sales activity.
- w. Prohibitions. A manufactured home shall only be used as a single-family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sites in a manufactured home community for sale or temporary sales office purposes.
- x. Operational Requirements.
  - a) Permits. A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. The Building Official shall communicate his/her recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing Division, Bureau of Construction Codes, Michigan Department of Consumer and Industry Services. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on-site, such as a management office or clubhouse, shall require a building permit prior to construction and a Certificate of Occupancy prior to use.
  - b) Violations. Whenever, upon inspection of any manufactured housing park, the Building Official finds that conditions or practices exist which violate provisions of this Section or other regulations referenced herein, the Building Official shall give notice in writing by certified mail to the Director of Michigan Manufactured Housing Commission, including the specific nature of the alleged violations and a description of possible remedial action

necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.

- c) Inspections. The Zoning Administrator or other authorized County agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this Section or other regulations referenced herein.

## **SECTION 2.16 LR LAKE AND RIVER RESORT DISTRICT**

- A. Intent. To establish and maintain for residential and recreational use those areas with frontage on lakes and rivers and those areas immediately adjacent and associated with the waterfront, which because of their natural characteristics and accessibility to waterfront activities are suitable in a recreational environment; and to further insure the clarity and purity of the water body and waterfront and to protect its economic value and scenic quality.
- B. Permitted Uses.
  - 1. Single-family dwellings with a minimum width of 14 feet.
  - 2. Accessory structures as regulated in Section 3.44.
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5;
  - 1. Marinas, boat liveries and boat storage;
  - 2. Public or privately operated swimming beaches;
  - 3. Grocery stores, rental cabins, motels, bait shops, and similar resort oriented commercial activities;
  - 4. Schools, churches and cemeteries; (*amendment #10-007*)
  - 5. Campgrounds, unlighted golf courses, public parks, and similar recreational facilities;
  - 6. Duplex residential structures.
  - 7. All special uses shall comply with all the provisions of Article 5 and the following specific standards:
    - a. No retail establishment may occupy more than 5,000 square feet of ground floor area.
    - b. Screening shall be required in accordance with Sections 3.5 or 3.6.
    - c. All uses shall abut a paved or improved graveled road.
    - d. All commercial uses shall comply with all the minimum requirements established in the Schedule of Regulations Section 2.21 for the C-1 Neighborhood Commercial District.
    - e. Commercial storage facilities must be located a minimum of three hundred (300) feet from the lake or water body.



- f. Personal storage facilities located within three hundred (300) feet of a lake or water body shall not exceed 1,200 square feet in area.

**D. District Regulations.**

1. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance.
2. All structures (including but not limited to decks, patios, porches) on lots abutting any body of water shall maintain a minimum setback of fifty (50) feet, as measured from the edge of the ordinary high water mark (meaning the line between the uplands and bottomlands (bank), which is apparent by the configuration of the slopes, surface soil and/or the vegetation; or a level established by law).
3. All uses shall be subject to setback requirements except pump houses (limited in size to 16 square feet and 4 feet in height (*amendment 18-010*)) and recreational docks within the cleared area; marinas, boat houses and liveries, fishing piers, commercial fishing docks, erosion control devices and associated facilities when located and designed so as not to unreasonably interfere with, degrade, or decrease the enjoyment of existing uses and water resources.
4. Regulations imposed in areas identified as erosion control districts or flood hazard districts in this Ordinance shall govern if such restrictions or regulations impose higher standards or requirements.

**SECTION 2.17 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT**

- A. Intent. The intent of the “C-1” Neighborhood Commercial District is to establish and preserve areas for those commercial facilities which are especially useful and are in close proximity to residential area, while minimizing the undesirable impact of such uses on the neighborhoods which provide service for a variety of commercial uses which can be compatible with pedestrian movement, but less intensive than the land uses permitted in the “C-2” General Business District. The district is intended to permit commercial establishments that cater to the convenience and comparison shopping needs of the surrounding area and, therefore, are often located so as to serve passing and destination traffic.

Because of the variety of business types permitted in the C-1 District, special attention must be focused on site layout, building design, vehicular circulation, and coordination of site features between adjoining sites. Neighborhood commercial facilities should be compatible in design with adjacent commercial development and not pose a nuisance to nearby residential areas.

- B. Permitted Uses. Land, buildings or structures in this Zoning District may be used for the following purposes only:
1. Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as: groceries, meats, dairy products, alcoholic beverages, baked goods or other foods, ice cream, pharmaceuticals, dry goods, notions, hardware, books, stationery and school supplies, records and video cassette sales and rental, flowers, hobby equipment, periodicals, shoes, sporting goods, small household articles, and tobacco products.
  2. Retail or service establishments which offer comparison goods for residents, such as: bicycle sales, jewelry stores, hobby shops, music stores, clothing and shoe stores, notions, bookstores, sporting goods stores, office supply stores, carpet stores, furniture stores, household appliance stores, paint and wallpaper stores, auto equipment sales stores, and similar specialty retail stores.

3. Establishments which perform services within a completely enclosed building for persons residing in nearby residential areas, such as: beauty and barber shops; watch, radio, television, clothing and shoe repair; locksmiths; photo processing outlets; and similar establishments.
4. Office buildings and professional office uses, including medical and dental clinics or offices.
5. Offices and showrooms of a plumber, electrician, building contractor, upholsterer, caterer, decorator or similar trade, subject to the following conditions:
  - a. All services performed on the premises, including fabrication, repair, cleaning or other processing of goods, shall be sold at retail on the premises where produced.
  - b. There shall be no outside storage of materials or goods of any kind.
6. Schools for occupations, professional, or technical training, such as dance schools, music and voice schools, art studios, secretarial training, and similar schools.
7. Funeral homes, provided there is adequate assembly area for vehicles to be used in funeral processions and such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of the funeral home.
8. Financial institutions, including banks, credit unions, and savings and loan associations. Drive-through facilities are permitted.
9. Laundry and dry cleaning customer outlets, coin operated Laundromats, self-serve dry cleaning establishments, and similar operations.
10. Private service clubs, fraternal organizations, banquet halls, and meeting halls.
11. Standard and carry-out restaurants, bars, and lounges.
12. Dance halls, assembly halls, and similar places of assembly.
13. Private indoor recreation uses, such as bowling alleys, billiard halls, gymnasium or court sports facilities, tennis clubs, roller or ice skating rinks, personal fitness centers, and similar recreation uses.
14. Accessory structures as regulated in Section 3.44
15. Commercial mini-storage facilities, outside storage not permitted. (*Amendment No. PA02-002*)
16. Arcades, as defined in Section 9.2 (*Amendment No. 10-003*)
17. Assisted living facilities (*Amendment No. 10-003*)
18. Bakeries (*Amendment No. 10-003*)
19. Car washed (*Amendment No. 10-003*)
20. Child care centers (*Amendment No. 10-003*)
21. Churches (*Amendment No. 10-003*)
22. Hospitals, nursing homes/hospice (*Amendment No. 10-003*)

23. Outdoor retail sales, such as home garden supplies, lawn furniture, plant material, playground equipment, etc. (*Amendment No. 10-003*)

C. Special Use Approval. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5;

1. Open-front stores and outdoor sales.
2. Veterinary offices and hospitals.
3. Kennels
4. Municipal, regional, state and federal buildings and uses not requiring outside storage of materials or vehicles.
5. Essential services
6. Planned Unit Developments as defined and subject to the provisions of Section 3.42.
7. Single-family dwellings
8. Improvements or minor\* additions to existing single-family dwellings, which may include accessory structures as regulated in Section 3.44. (*Amendment #06-010*)
  - a. \*Less than 50% of the principle residence's square footage, in existence at the time of the adoption of the current zoning ordinance.
9. Gas stations; (*Amendment No. 10-003*)
10. Cemeteries; (*Amendment #10-007*)
11. Mixed Use of commercial and residential uses, subject to the following conditions
  - a. Commercial use must be listed as a permitted use or special use in the C-1 district
  - b. Residence must be single or two family residences. (*Amendment No. 13-001*)
12. Sawmills

D. District Regulations.

1. All uses shall be subject to site plan review by the Planning Commission, and shall meet any specific site/design standards as outlined in Section 4.1.
2. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance.
3. No commercial establishment may occupy more than 5,000 square feet of floor area; this may be increased by special use permit, if the Planning Commission finds that the greater size will not change the essential character of the district. Screening as specified in Section 3.6 shall be required for all storage areas and waste receptacles. Residential uses shall comply with District R-2 lot size, lot width and setback requirements
4. With the exception of automobile parking and off-street parking, all business, service or processing shall be conducted wholly within a completely enclosed building.

5. All goods produced on the premises shall be sold at retail on the premises where produced.

**SECTION 2.18 C-2 GENERAL COMMERCIAL DISTRICT**

- A. Intent. To establish and preserve general commercial areas consisting of shopping centers and commercial areas where customers reach individual business establishments primarily by motor vehicles and public transportation.
- B. Permitted Uses.
  1. Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as: groceries, meats, dairy products, alcoholic beverages, baked goods or other foods, ice cream, pharmaceuticals, dry goods, notions, hardware, books, stationery and school supplies, records and video cassette sales and rental, flowers, hobby equipment, periodicals, shoes, sporting goods, small household articles, and tobacco products.
  2. Retail or service establishments which offer comparison goods for residents, such as: bicycle sales, jewelry stores, hobby shops, music stores, clothing and shoe stores, notions, bookstores, sporting goods stores, office supply stores, carpet stores, furniture stores, household appliance stores, paint and wallpaper stores, auto equipment sales stores, and similar specialty retail stores.
  3. Establishments which perform services within a completely enclosed building for persons residing in nearby residential areas, such as: beauty and barber shops; watch, radio, television, clothing and shoe repair; locksmiths; photo processing outlets; and similar establishments.
  4. Office buildings and professional office uses, including medical and dental clinics or offices.
  5. Offices and showrooms of a plumber, electrician, building contractor, upholsterer, caterer, decorator or similar trade, subject to the following conditions:
    - a. All services performed on the premises, including fabrication, repair, cleaning or other processing of goods, shall be sold at retail on the premises where produced.
    - b. There shall be no outside storage of materials or goods of any kind.
  6. Schools for occupations, professional, or technical training, such as dance schools, music and voice schools, art studios, secretarial training, and similar schools.
  7. Funeral homes, provided there is adequate assembly area for vehicles to be used in funeral processions and such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of the funeral home.
  8. Financial institutions, including banks, credit unions, and savings and loan associations. Drive-through facilities are permitted.
  9. Laundry and dry cleaning customer outlets, coin operated Laundromats, self-serve dry cleaning establishments, and similar operations.
  10. Private service clubs, fraternal organizations, banquet halls, and meeting halls.
  11. Standard and carry-out restaurants, bars, and lounges.
  12. Dance halls, assembly halls, and similar places of assembly.

13. Private indoor recreation uses, such as bowling alleys, billiard halls, gymnasium or court sports facilities, tennis clubs, roller or ice skating rinks, personal fitness centers, and similar recreation uses.
  14. Accessory structures as regulated in Section 3.44.
  15. Gas stations
  16. Recreational and automotive sales
  17. Hotels and motels
  18. Churches
  19. Hospitals, nursing homes/hospice and child care centers (*Amendment No. 10-004*)
  20. Wholesale sales
  21. Bakeries
  22. Drive-in and drive thru restaurants
  23. Indoor theaters
  24. Off premises signs
  25. Commercial mini-storage facilities, outside storage not permitted. (*Amendment No. PA02-002*)
  26. Arcades, as defined in Section 9.2 (*Amendment No. 10-004*)
  27. Assisted living facilities (*Amendment No. 10-004*)
  28. Bakeries (*Amendment No. 10-004*)
  29. Car washes (*Amendment No. 10-004*)
  30. Outdoor retail sales, such as home garden supplies, lawn furniture, plant material, playground equipment, etc. (*Amendment No. 10-004*)
  31. Tool and die shops (*Amendment No. 10-004*)
  32. Veterinary offices and hospitals (*Amendment No. 10-004*)
  33. Manufactured homes sales (*Amendment No. 24-002*)
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5:
1. Adult business uses subject to Section 3.22 of this Ordinance (*amendment #14-009*)
  2. Automobile repair garage (*amendment #07-005*)
  3. Drive-in theaters
  4. Public indoor recreational facilities including health clubs, tennis facilities, bowling alleys, ice/roller rinks and gymnasiums

5. Contractor's storage yards
6. Food and meat processing plants
7. Printing plants
8. Junk yards
9. Trucking and excavation operations (*amendment #11-001*)
10. Improvements or minor\* additions to existing single-family dwellings, which may include accessory structures as regulated in Section 3.44. (*Amendment #06-010*)
  - a. \*Less than 50% of the principle residence's square footage, in existence at the time of the adoption of the current zoning ordinance.
11. Tattoo and body piercing establishments (*Amendment #07-006*)
12. Kennels (*Amendment No. 10-004*)
13. Essential services (*Amendment No. 10-004*)
14. Planned unit developments as defined and subject to the provisions of Section 3.42 (*Amendment No. 10-004*)
15. Cemeteries; (*Amendment #10-007*)

**D. District Regulations.**

1. All uses shall be subject to site plan review by the Planning Commission, and shall meet any specific site/design standards as outlined in Section 4.1
2. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance.

**E. Commercial Uses at a Glance in C-1 & C-2 Zoning Districts Chart**

<b>Commercial Uses at a Glance in C-1 &amp; C-2 Zoning Districts</b> (alphabetical order; bold indicates Special Use Approval required)			
		C-1	C-2
1	accessory structures as regulated in Section 3.44	x	x
2	adult oriented uses subject to Section 3.22		<b>X</b>
3	arcades as defined in Section 9.2	x	x
4	assisted living facilities	x	x
5	automobile repair garage		<b>X</b>
6	bakeries	x	x
7	cemeteries	<b>X</b>	<b>X</b>
8	car washes	x	x
9	child care facilities	x	x
10	churches	x	x
11	coin operated laundromats	x	x
12	commercial kennels	<b>X</b>	<b>X</b>
13	commercial mini-storage facilities, enclosed	x	x

## Zoning Districts

14	contractor's storage yards		<b>X</b>
15	drive- in theaters		<b>X</b>
16	drive-in & drive-thru restaurants		x
17	essential services	<b>X</b>	<b>X</b>
18	financial institutions, such as banks or credit unions with or w/o drive thru facilities	x	x
19	food & meat processing plants		<b>X</b>
20	funeral homes	x	x
21	gas stations	<b>X</b>	x
22	halls - assembly or dance	x	x
23	hospitals	x	x
24	hotels & motels		x
25	improvements or minor additions to existing single-family dwellings, which may incl. accessory structures as regulated in Section 3.44	<b>X</b>	<b>X</b>
26	indoor theaters		x
27	junk yards		<b>X</b>
28	laundry & dry cleaning	x	x
29	Manufactured homes sales ( <i>Amendment No 24-002</i> )		<b>X</b>
30	medical & dental clinics or offices	x	x
31	municipal, regional, state & federal bldgs. & uses not requiring outside storage of materials or vehicles	<b>X</b>	<b>X</b>
32	nursing homes/hospice	x	x
33	office buildings	x	x
34	offices & showrooms, such as building contractor, caterer, decorator, electrician, plumber, upholsterer or similar trades	x	x
35	open-front stores & outdoor sales	x	x
36	outdoor retail sales, such as home garden supplies, lawn furniture, plant material, playground equipment, etc.	x	x
37	planned unit developments as defined & subject to Section 3.42	<b>X</b>	<b>X</b>
38	printing plants		<b>X</b>
39	private - banquet halls, fraternal organizations, meeting halls, service clubs, etc.	x	x
40	private indoor recreation, such as billiard halls, gymnasium or court sports facilities, personal fitness centers, roller or ice rinks, tennis clubs or similar uses	x	x
41	professional office uses	x	x
42	public indoor recreational facilities, such as bowling alleys, gymnasiums, health clubs, ice and roller rinks, tennis facilities or similar uses		<b>X</b>
43	recreational & automotive sales		x
44	retail sales or services of items such as: alcoholic beverages, auto equipment sales, baked goods, barber & beauty shops, bicycle sales, books, carpeting, clothing, dairy products, flowers, furniture, groceries, hardware, hobby equipment, household appliances, ice cream, jewelry, locksmiths, meats, music, notions, office supplies, other foods, paint, periodicals, pharmaceuticals, photo processing, records, school supplies, shoes, small household articles, sporting goods, stationery, television & radio, tobacco products, video sales & rentals, wallpaper, watch repair, etc.	x	x
45	schools, such as art, dance, music, occupational, professional, secretarial, technical, voice, etc.	x	x
46	single-family dwellings	<b>X</b>	
47	standard & carry out - bars, lounges & restaurants	x	x
48	tattoo & body piercing establishments	<b>X</b>	<b>X</b>

## ***Zoning Districts***

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49	tool & die shops		x
50	trucking operations		<b>X</b>
51	veterinary offices & hospitals	<b>X</b>	x
52	wholesale sales		x

(Amendment No. 10-005)

### **SECTION 2.19 C-3 HIGHWAY INTERCHANGE COMMERCIAL DISTRICT**

- A. Intent. To establish and maintain areas, adjacent to limited access highway interchanges, which service the functional purpose of the highway and the needs of the traveling public using the limited access highway; to insure smooth, safe traffic flow along major access routes and at the interchanges; and to provide for individual site designs which will be appropriately planned to insure mutual compatibility between adjacent land uses.
- B. Permitted Uses.
1. Gasoline and automotive service stations;
  2. Restaurants;
  3. Hotels and motels;
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5:
1. Truck stops (service centers);
  2. Transportation and warehousing;
  3. Municipal facilities and other similar public institutional uses.
  4. Establishments selling goods and services at retail.
  5. Recreational vehicle sales and service dealerships.
  6. Improvements or minor\* additions to existing single-family dwellings, which may include accessory structures as regulated in Section 3.44. (*Amendment #06-010*)
    - a. \*Less than 50% of the principle residence's square footage, in existence at the time of the adoption of the current zoning ordinance.
- D. District Regulations.
1. All uses shall be subject to site plan review by the Planning Commission, and shall meet any specific site/design standards as outlined in Section 4.1.
  2. The following minimum lot size and road frontage standards apply:
    - a. When the use or parcel fronts on the main access road (meaning a major arterial public road which intersects the limited access highway): two acre lot size, and 300 feet road frontage.



- b. When the use or parcel fronts on a service access road (meaning a public or approved private service road or other local road which may parallel or intersect the main access road, but does not intersect the highway): one acre lot size, and 150 feet road frontage.
- 3. The following minimum setback and ground coverage requirements shall be maintained for all structures:
  - a. A 50 foot setback from the freeway right of way.
  - b. Front setbacks shall be a minimum of:
    - a) Seventy-five foot from the main access road.
    - b) Fifty foot setback from the service drive or other local roads.
  - c. No minimum side setback shall be enforced, except a 50 foot minimum setback shall be maintained between any adjoining non-commercial uses. All structures shall be provided with or otherwise guaranteed access to their rear yard with a minimum of 20 feet clear and unobstructed access way or easement. A minimum turning radius of 50 feet shall be maintained for this access way.
  - d. A rear setback of 50 foot shall be maintained.
  - e. Parking lots shall maintain a 25 foot landscaped open area between any public road right-of-way and the parking lot.
  - f. There shall be a maximum of 50 percent ground coverage (may be extended to 80 percent where public sewer and drainage facilities exist).
- 4. There shall be one principal use per lot, unless otherwise authorized by the Planning Commission, as a special use permit.
- 5. Curb cut, driveway and similar access controls (called access points) along the main access road, or other roads, as indicated, shall be maintained as follows:
  - a. Nearest access point to any road intersection:
    - a) County primary roads or main access roads: 150 feet.
    - b) County local roads: 100 feet.
  - b. Maximum number of access points permitted per parcel: two.
  - c. Minimum distance between any two access points:
    - a) On the same side of the road for :
      - 1) Main access roads: 300 feet.
      - 2) Service access roads: 75 feet.
    - b) On the opposite side of the road: either directly across or 200 feet apart.
  - d. Driveway widths: minimum - 18 feet; maximum - 50 feet.
  - e. Minimum distance between those roadways which provide access between the main access road and service access road: 1000 feet.

- f. All service access roads shall be physically separated by a permanent barrier, landscaped open area or similar buffer from all parking or non-vehicular areas.
6. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance

**SECTION 2.20 I-1 INDUSTRIAL DISTRICT**

- A. Intent. The I-1 Industrial District is designed so as to primarily accommodate industrial and business parks, wholesale activities, warehouses, assembly and industrial operations whose external effects are restricted to the area of the district and in no manner detrimentally affect any of the surrounding district or adjacent uses. The I-1 District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared materials. The processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, while permitted as a special use under strict scrutiny, is highly discouraged.

Permitted uses should be compatible with surrounding residential or commercial uses. Accordingly, permitted manufacturing, distribution, warehousing, and light industrial uses permitted in this District should be fully contained within well-designed buildings on amply-landscaped sites, with adequate off-street parking and loading areas, and with proper screening around outside storage areas.

B. Permitted Uses.

1. Any use charged with the principal function of basic research, design, and pilot or experimental project development when conducted within a completely enclosed building. The growing of any vegetation requisite to the conducting of basic research shall be excluded from the requirement of enclosure.
2. Warehousing and wholesale establishments when conducted within a entirely enclosed building. No outdoor storage (including pallets and packaging materials) shall be permitted.
3. The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge, and machining shops.
4. The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials such as, but not limited to: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semi-precious metals or stone, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns but not including the bailing of discards, old iron or other metal, wood, lumber, glass, paper, rags or other similar material.
5. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
6. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products and the manufacture or assembly of electrical appliances, electronic instruments and devices, radios, phonographs and television.
7. Vocational schools and career training centers.
8. Professional or corporate office facilities, experimental film and testing laboratories.

9. Manufacturing and repair of electric signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
  10. Business Services (mailing, copying, data processing)
  11. Automotive repair garages, auto engine and body repair, and undercoating shops when all operations take place within a completely enclosed building. Only those vehicles scheduled to be worked on shall be permitted for overnight, onsite, outdoor storage.
  12. Mini-warehouses and self-storage facilities.
  13. Accessory off-street parking and buildings and uses customarily incidental to the above permitted uses.
  14. Essential service buildings (without storage yards) when operating requirements necessitate the location of said buildings within the district in order to serve the immediate vicinity including telephone exchange buildings, electrical substations, and gas regulator stations.
- C. Uses by Special Permit. The following uses may be permitted by a special use permit upon specific approval by the Planning Commission, provided they are found to be in accordance with the provisions of Article 5:
1. Retail uses which have an industrial character in terms of either their activities or outdoor storage requirements such as, but not limited to: lumber yards, building materials outlets, upholsterers, and cabinet makers, and agricultural or construction equipment sales, rental, or repair.
  2. Restaurants, financial institutions, child care facilities, and vocational training centers for the servicing of employees of the industrial facilities within the localized area.
  3. Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the "I-1" District.
  4. Metal plating, buffing, stamping and polishing.
  5. Junk yards, recycling, and metal recovery facilities.
  6. Storage facilities for building materials, sand, gravel, stone, lumber and outdoor storage of contractor's equipment and supplies.
  7. Central dry cleaning and laundry facilities.
  8. Other uses which are of a similar character to the above uses.
  9. Outdoor storage not allowed by permitted use.
  10. Bottling plants for spring water, juices, carbonated beverages and other similar drinks.
  11. Livestock slaughtering facilities, animal rendering facilities and related packaging facilities.
  12. Improvements of minor\* additions to existing single-family dwellings, which may include accessory structures as regulated in Section 3.44. (*Amendment #06-010*)
    - a. \*Less than 50% of the principle residence's square footage, in existence at the time of the adoption of the current zoning ordinance.
  13. Cemeteries; (*Amendment #10-007*)

**D. District Regulations.**

1. All uses shall be subject to site plan review by the Planning Commission, and shall meet any specific site/design standards as outlined in Section 4.2.
2. All uses shall be subject to the lot size, bulk, and placement standards identified in Section 2.21 of this Ordinance.
3. Where outdoor storage is permitted, an enclosed barrier or fence of at least eight feet in height may be required, if the Planning Commission following site plan review, finds that the exposed material poses a hazard or threat to the public health, safety, general welfare or character of the zoning district, enclosed materials shall not be stacked or stored so as to exceed the district height and requirements.

**SECTION 2.21 LOT SIZE, BULK, AND PLACEMENT REGULATIONS**

- A. Purpose. Except as otherwise specifically provided in this Ordinance, no structure shall exceed the density and dispersion limits specified below, nor shall any structure be erected or maintained between any lot line or road right-of-way and the established setback distance as listed below in the Schedule of Regulations:

**B. Schedule of Regulations**

District	Min. Lot Size (sq. ft.)	Min. Lot Width (feet)	Front Setback (feet)	Rear Setback (feet)	Side Yard Setback (feet)	Max. Ground Cover %	Max. Bldg. Height (feet)	Max. Width/Depth Ratio	Min. Floor Area (sq. ft.)
AG	1 acre	200	50	10	25	None	none	4:1	none
AF	1 acre	200	50	50	25	40%	none	4:1	none
R-1	1 acre	100	50	25	20	15%	30	4:1	none
R-2	20,000a,b	100	30c	10	8	40%	30	4:1	none
R-3	20,000a,b	100	30c	30	30	40%	30	4:1	none
R-4	2 acres	200	50	50	50	40%	45	4:1	none
LR	20,000a	100	30	10	8	30%	30	4:1	none
MHP	5 acres	200	25	25	25	none	45	4:1	none
C-1	None	100	35	20	10d	40%	30	5:1	none
C-2	None	100	50	20	20d	40%	30	5:1	none
C-3	2 acres	300	75	50	30d	40%	none	none	none
I-1	None	200	75	50	40d	50%	none	5:1	none

NOTE:

- a) If serviced by sewer or/and water provided:
- b) Where public sewer is provided 10,000 square foot and 75 foot lot width.
- c) Where public water is provided 10,000 square foot and 75 foot lot width.

- d) Where both public water and public sewer are provided 7,500 square foot lot and 60 foot lot width.
  - b. Duplexes shall require a minimum lot size of 25,000 square feet with a 125 foot lot width.
  - c. Fifty (50) feet where front lot line is adjacent to a state trunk line and 35 feet where footage is on a paved county primary road.
  - d. Setbacks from any exiting residential parcels shall be: 50 feet for all buildings; 25 feet for driveways, entrances or exits; and 10 feet for parking areas.
- C. The ratio of length to width may be increased by the Zoning Board of Appeals in accordance with Section 7.3, provided the Zoning Board of Appeals finds that topographic characteristics, unique natural features, or other similar physical limitation limits the reasonable use of the permitted length: width ratio.
- D. All lots abutting any body of water shall maintain a minimum setback of fifty (50) feet, as measured from the edge of the ordinary high water mark (meaning the line between the uplands and bottomlands (bank), which is apparent by the configuration of the slopes, surface soil and/or the vegetation; or a level established by law). This minimum setback requirement may be reduced one foot for every one foot of vertical elevation of the bank, until a minimum setback of 30 feet is reached, as measured from the edge of the bank or bluff line, whichever is greater (Amendment No. PA02-001).
- E. Minimum lot widths are measured at the front setback lines.
- F. In the R-1, R-2, LR and all platted residential areas only, one principal use (dwelling) shall be permitted per lot.
- G. A minimum four foot setback shall be maintained from all public utilities or municipal easements.
- H. Setback requirements, may be reduced by the Zoning Administrator to equal the average or the actual existing setbacks of those lots, which are located within 300 ft of, and are on the same side of the street as the lot in questions; provided that the front setback shall not be less than 10 feet, and side or rear setbacks are not less than 4 feet.
- I. Waterfront setback requirements may be reduced by the Zoning Administrator to equal the average (50% of the lots developed) or the actual existing setbacks of those lots, which are located within 300 ft. of, and are on the same side of the street as the lot in question, provided that at least a 25 foot setback is maintained. Only residences and the principal garage can be used in this calculation. In areas not so developed, the Zoning Administrator may reduce the setback to 25 feet on legal nonconforming lots provided said lot cannot normally accommodate any structure within the proposed setback requirements (*Amendment No. PA02-001*)

## **ARTICLE III GENERAL PROVISIONS**

### **SECTION 3.0 INTENT**

All uses and structures whether permitted by right or by special use permit, shall be subject to the following general regulations of this Ordinance.

### **SECTION 3.1 GENERAL EXCEPTIONS**

- A. Essential Services. Essential services shall be permitted as authorized and regulated by law and other ordinances of the County, it being the intention hereof to exempt such essential services from the application of this Ordinance, except that all buildings hereunder shall be subject to site plan review in accordance with this Ordinance.
- B. Voting Place. The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.
- C. Height Limits. The height limits of this Ordinance shall not apply to radio transmitting and receiving or television antennae, chimneys or flagpoles, church spires, belfries, cupolas, domes, water towers, observation towers, power transmission towers, radio towers, masts, aerials, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, and other similar and necessary mechanical appurtenance pertaining to the permitted uses of the districts which they are located.

### **SECTION 3.2 EASEMENTS**

It shall be unlawful for any person to install, erect, cause or permit the installation of a permanent structure (garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use.

### **SECTION 3.3 GRADES, ELEVATION DIFFERENTIALS**

The grading of all building lots shall be such as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property.

### **SECTION 3.4 OBSTRUCTIONS TO VISION ON CORNER LOTS**

No structure, wall, fence, shrubbery, or trees shall be erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three (3) feet in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

### **SECTION 3.5 FENCE, WALL AND PRIVACY SCREEN REGULATIONS**

- A. Fences, walls and privacy screens are permitted subject to the following:

Fences or walls in Single Family Residential zones shall not exceed 6 feet in height above grade and shall not extend toward the front of the lot farther than the front building line. Fences or walls are permitted within a front yard, provided that they do not exceed four (4) feet in height. All fences which are a part of any deck structure shall not exceed six (6) feet in height above the surface of the deck. All such fences shall be subject to the following conditions:

1. Those side yards that have a common street line with front yards in the same block shall be treated as front yards and shall not have a fence over four (4) feet in height erected within the minimum front yard setback.
2. On corner lots, fences shall not be higher than three (3) feet within twenty-five (25) feet of the intersection of the two roads in order to maintain the clear vision area.
3. Fences which serve as architectural or decorative landscaping and are not used to enclose property and/or are not placed on common lot lines, may be erected within the provisions of the minimum yard requirements for said yard as specified each zoning district classification.

### **SECTION 3.6 REQUIRED WALLS, BERMS AND GREENBELTS FOR TRANSITIONAL PURPOSES**

Walls, berms, greenbelts or combinations thereof shall be required to provide various forms of transition which contribute to a more compatible, safe, attractive, functional and ecologically balanced community.

The minimum standards applicable to these improvements are as follows:

#### **A. Walls**

1. For those Zoning Districts and uses listed below, and as required elsewhere in this Ordinance, there shall be provided and maintained on those sides abutting or adjacent to any residential district, a decorative masonry obscuring wall as required below. An earthen berm or obscuring greenbelt may be utilized in place of a wall, subject to the review and approval of the Planning Commission. See items 2 and 3 of this Section for berm and greenbelt requirements.

#### **Wall Height**

<b><u>Use or District</u></b>	<b><u>Requirements</u></b>
Off-street Parking Lot	4'-6" high wall or privacy fence
Commercial Districts	4'-6" high wall or privacy fence
I-District, open storage areas (when permitted), loading or unloading areas, service areas.	6'-0" to 8'-0" high wall
Compost heap	4'-6" high wall or privacy fence

2. Required walls shall be located on the lot line except where underground utilities interfere with such location or where this Ordinance requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the Planning Commission may approve an alternate location for the wall. Required walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given

block will be a major consideration of the Planning Commission in reviewing such request.

3. The Zoning Board of Appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served.

**B. Berms** When berms are used as part of the required transitional areas, they shall be subject to the following conditions:

1. Required berms shall be constructed as landscaped earth mounds with a crest area of at least four (4) feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope, or retained by means of a wall, terrace, or other means acceptable to the Planning Commission. Whenever an earthen slope is provided, it shall be constructed with an incline not to exceed one (1) foot vertical rise to three (3) feet of horizontal distance.
2. Berm slopes shall be protected from erosion by sodding or seeding. Seeded slopes shall be protected with a straw mulch held in place by jute netting until the seed germinates and a permanent lawn is established. The straw mulch is not required if the seeded slope is protected by a net that is specifically designed to control erosion. The berm area shall be kept free from refuse and debris and shall be planted with living shrubs, trees or lawn, and shall be maintained in a healthy, growing condition.
3. A planting plan and grading plan shall be prepared for the berm. Plant materials within the berm area shall be installed in accordance with the requirements for greenbelts and plant material contained in this Section.
4. The height of the berm shall be equivalent to the height of any required wall. A combination of berms and plantings may be approved if they equal the height of the required wall at the time of planting and will provide a complete obscuring screen year round. In granting approval, the Planning Commission shall determine that the proposed berm is at least comparable to a wall in affording necessary screening.

**C. Greenbelts** Wherever greenbelts are required as part of a transitional area, such greenbelts shall comply with the following requirements:

1. Non-obscuring greenbelts shall not be considered as a substitute for a wall as required elsewhere in this Ordinance.
2. Any such greenbelt shall contain at least one (1) tree for each fifteen (15) linear feet of greenbelt. All such trees shall be six (6) feet or more in height or a minimum caliper of one and one-half (1-1/2) inches at the time of planting. The remaining ground surface area shall be seeded, sodded or planted with ground cover. Innovation and design of landscaping, berm placement and use of flowering trees is encouraged.
3. Greenbelts shall be so designed as to avoid creating obstacles to proper sight distance between vehicles and vehicles and pedestrians.
4. All required greenbelts shall meet the following basic conditions:
  - a. Whenever in this Ordinance a greenbelt or planting is required, a cash bond, letter of credit or corporate surety bond in an amount equal to the estimated cost of the landscape plan or portion thereof will be deposited in accordance with Section 5.2.



- b. A detailed plan for the greenbelt, together with an accurate cost estimate, shall be approved prior to the issuance of a building permit. The plan shall include the following items: plant list detailing the species, number, size or height at time of planting; location and spacing of plant materials; groundcover or grass (specify whether seed or sod); cross sections of any berms, and a maintenance plan and schedule for pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials.
- c. All required planting materials shall be maintained in good condition by mowing and watering, by tilling and watering, or by mulching and watering, so as to present a healthy, neat, and orderly appearance free from refuse and debris. All unhealthy and dead materials shall be replaced within one (1) year or the next appropriate planting season. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided.
- d. Plant materials shall be selected so as to insure that the root system will not interfere with public utilities and that fruit and other debris (other than leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners.
- e. The following trees shall not be permitted in required greenbelts:
  - a) Box Elder
  - b) Elms
  - c) Poplars
  - d) Willows
  - e) Horse Chestnut (nut bearing)
  - f) Tree of Heaven
  - g) Catalpa
  - h) Black Locust
  - i) Osage Orange
  - j) Cottonwood
  - k) Chinese Elm
- f. Recommended trees and plant materials and required minimum heights are as follows:
  - a) Evergreen trees : Six (6) feet in height
    - 1) Juniper
    - 2) Hemlock
    - 3) Fir
    - 4) Pine
    - 5) Spruce

- 6) Douglas-Fir
- 7) Cedar
- b) Narrow Evergreens: Four (4) feet in height
  - 1) Column Hinoki Cypress
  - 2) Blue Columnar Chinese Juniper
  - 3) Pyramidal Red-Cedar
  - 4) Swiss Stone Pine
  - 5) Pyramidal White Pine
  - 6) Irish Yew
  - 7) Douglas Arbor-Vitae
  - 8) Columnar Giant Arbor-Vitae
- c) Tree-like Shrubs: Four (4) feet in height
  - 1) Flowering Crabs
  - 2) Russian Olives
  - 3) Mountain-Ash
  - 4) Dogwood
  - 5) Redbud
  - 6) Rose of Sharon
  - 7) Hornbeam
  - 8) Hawthorn
  - 9) Magnolia
  - 10) Siberean Pea Tree
- d) Large Deciduous Shrubs: Six (6) feet in height
  - 1) Honeysuckle
  - 2) Viburnum
  - 3) Mock-Orange
  - 4) Forsythia
  - 5) Lilac
  - 6) Ninebark
  - 7) Cottoneaster

- 8) Hazelnut
- 9) Euonymus
- 10) Privet
- 11) Buckthorn
- 12) Sumac
- 13) Autumn Olives
- 14) Dogwoods
- 15) Pussy Willow
- 16) Witch Hazel
- 17) High Bush Cranberry
- 18) Arrowwood
- 19) Wayfaring Tree
- e) Large Deciduous Trees: One and one-half (1-1/2) inches in caliper
  - 1) Oaks
  - 2) Hard Maples
  - 3) Hackberry
  - 4) Planetree (Sycamore)
  - 5) Birch
  - 6) Beech
  - 7) Honeylocust
  - 8) Sweet-Gum
  - 9) Hop Hornbeam
  - 10) Linden
  - 11) Ash (grafted)
  - 12) Ginkgo (male)

### **SECTION 3.7 OFF-STREET PARKING REQUIREMENTS**

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

**SECTION 3.7.1 GENERAL REQUIREMENTS**

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

- A. Off-Street Parking Spaces for One and Two-Family Dwellings: Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. No parking shall be permitted in the required front yard except on a driveway which leads to an approved parking space.
- B. Off-Street Parking for Multiple-Family and Non-Residential Uses: Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use. Ownership or a use easement, duly recorded with the County Registrar of Deeds, shall be shown for all land areas intended for use as parking by the applicant.
- C. Existing Parking Facilities: An area designated as required off-street parking facilities in existence at the effective date of this Ordinance shall not be reduced below the requirements for the use or building served as set forth in this Ordinance.
- D. Joint Use of Facilities: Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses.
- E. Non-overlapping Operating Hours: In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of Section 3.7.2.
- F. Restriction of Parking on Private Property: It shall be unlawful to park or store any motor vehicle on private property without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.
- G. Storage and Repair Prohibited: An unenclosed off-street parking space may not be used for the storage or parking of manufactured (mobile) homes, junked or wrecked vehicles of any type or used as a storage area for merchandise or industrial equipment or material, or used as a dump for refuse of any description.
- H. Use of Loading Space: Required loading spaces shall not be counted or used for required parking.
- I. Gross and Usable Floor Area: For the purpose of computing the number of parking spaces required, the definitions under for Gross and Usable Floor Area in Section 9.02 shall apply.

- J. Fractional Requirements: When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
- K. Uses Not Specified: For those uses not specifically mentioned in this Ordinance, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.

**SECTION 3.7.2 TABLE OF OFF-STREET PARKING REQUIREMENTS**

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

1. Residential

Use	Spaces Per Unit of Measure
Residential, One-Family and Two-Family Dwelling, including mobile homes.	Two (2) for each dwelling unit.
Residential, Multiple-Family	One (1) for each efficiency unit, one and one-half (1-1/2) for each one (1) bedroom unit, two (2) for each two (2) bedroom unit, and three (3) for three (3) or more bedroom units.
Senior Citizen Housing	One (1) for each dwelling unit one (1) for each employee, plus one (1) per three (3) units for visitors.
Boarding, Rooming, Lodging Establishments	One (1) parking space for each sleeping room and/or occupancy unit plus one (1) parking space for each employee on the largest employment shift.

2. Institutional

Use	Spaces Per Unit of Measure
Churches, Temples or Synagogues	One (1) for each three (3) seats, based on maximum seating capacity in the main unit of worship.
Hospitals	One (1) for each patient bed, plus one (1) additional space for every worker employed during the eight (8) hours shift in which the greatest number of employees are on duty.
Foster Care Group Homes, Homes for the Aged, Convalescent Homes and Children Homes	One (1) for each three (3) beds, plus one (1) for each employee on the largest employment shift.
Elementary and Junior High School	One (1) for each one (1) teacher, employee or administrator, plus one (1) per classroom for visitor use in addition to the requirements for the auditorium, if provided.
Senior High Schools	One (1) for each teacher, employee or administrator, one (1) for each ten (10) students, and one (1) per classroom for visitor use, in addition to the requirements

	for the auditorium and stadium, if provided.
Private Clubs or Lodge Halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Fraternity or sorority	One (1) for each three (3) permitted active members, plus one (1) per employee on the largest employment shift.
Boat Launch, Private or Public	Fifteen (15) combined vehicle and boat trailer spaces for each one (1) individual boat ramp.
Theaters and Auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees on the largest employment shift.
Libraries, Museums, Cultural Centers	One (1) for each four hundred (400) square feet of gross floor area.
Nursery, Day Care, or Child Care Centers	One for each three hundred fifty (350) square feet of usable floor space.

### 3. Recreational

For each use below, additional spaces shall also be provided as required for restaurants, bars, clubhouses, pro shops, or other affiliated facilities.

<b>Use</b>	<b>Spaces Per Unit of Measure</b>
Archery Facilities	One (1) for each two targets
Softball, Baseball Fields	Twenty-five (25) for each playing field
Bowling Establishments	Six (6) for each lane
Dance Halls, Health Spas, Pool & Billiards Hall, and Skating Rinks	One (1) for each two (2) persons who may be legally admitted at one time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift
Football and Soccer Fields	Thirty (30) for each field
Golf Course, Public or Private	Five (5) for each golf hole, plus one for each employee on the largest employment shift
Golf Course, Miniature	Two (2) for each golf hole, plus one (1) for each employee in the largest employment shift
Golf Driving Range	One (1) for each tee
Stadium, Sports Arena, or	One (1) for each three (3) seats or similar place of outdoor six (6) feet of benches, plus one assembly (1) for each employee on the largest employment shift
Swimming Pools	One (1) for each four (4) persons who may be legally admitted at one time based on occupancy load established by local codes, plus one (1) for each employee on the largest employment shift
Tennis Clubs and Court-Type Recreation Use	One (1) for each one (1) person admitted based on the capacity of the courts, plus (1)

	for each employee in the largest employment shift
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4. Business and Commercial

Use	Spaces Per Unit of Measure
Animal Hospitals	One (1) for each four hundred (400) square feet of usable floor area, plus one (1) for each employee in the largest employment shift
Automobile Service Stations	Two (2) for each lubrication stall, rack or pit; and one (1) for each employee on the largest employment shift. For quick oil change facilities, one (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to a service station shall be provided as required by Section 3.7.4
Auto Wash	One (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to the auto wash shall be provided as required by Section 3.7.4
Beauty Parlor or Barber Shop	Three (3) spaces for each of the first two(2) beauty or barber chairs, and one and one-half (1-1/2) spaces for each additional chair
Drive-In Establishments	One (1) for each thirty (30) square feet of usable floor area, with a minimum of twenty-five (25) parking spaces, plus eight (8) stacking spaces for each drive-in or drive-thru transaction station as required by Section 3.7.4
Establishments for Sale and Consumption of Beverages, Food or Refreshments	One (1) for every four (4) seats based on maximum seating on premises
Furniture and Appliance, Household Equipment, Repair Shops, Showroom of a Plumber, Decorator, Electrician, Shoe Repair, or Similar Trade Other Similar Uses	One (1) for each eight hundred (800) square feet of usable floor area, exclusive of the floor area occupied in processing or manufacturing. One (1) additional space shall be provided and for each one (1) person employed therein in the largest employment shift
Ice Cream Parlors	One (1) for each seventy-five (75) square feet of gross floor area, with a minimum of eight (8) spaces
Laundromats and Coin Operated Dry Cleaners	One (1) for each two (2) washing machines
Mortuary Establishments	One (1) for every two (2) persons allowed per fire code occupancy of the largest assembly room plus one for each resident employee and three (3) standing vehicle

## ***General Provisions***

	spaces
Motel, Hotel or Other Commercial Lodging Establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee on the largest shift, plus extra spaces for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load
Motor Vehicle Sales and Service Establishments, Trailer Sales and Rental, Boat Showrooms	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room, plus one space per employee on the largest employment shift
Open Air Business	One (1) for each six hundred (600) square feet of lot area used in open air business
Restaurant, Carry-Out	One (1) for each one hundred (100) square feet of gross floor area
Roadside Stands	Six (6) for each establishment
Retail Stores, Except as Otherwise Specified Herein	One (1) for each two hundred (200) square feet of usable floor area
Shopping Center or Clustered Commercial	Five and one-half (5 ½) spaces per one thousand (1,000) square feet of gross floor area

### **5. Offices**

<b>Use</b>	<b>Spaces Per Unit of Measure</b>
Banks, Savings and Loan Office	One (1) for each one hundred (100) square feet of usable floor area, and four (4) stacking spaces for each drive-in or drive-thru transaction station as required by Section 3.7.4
Business Offices or Professional Offices, except as indicated in the following item (c)	One (1) for each two hundred (200) square feet of usable floor area
Medical or Dental Clinics, Professional Offices of Doctors, Dentists, or Similar Professions	One (1) for each one hundred (100) square feet of usable floor area in waiting rooms and one (1) for each examining room, dental chair or similar use area
Offices of local, state or federal government or non-profit agencies	One (1) for each two hundred (200) square feet of usable floor area

### **6. Industrial**

<b>Use</b>	<b>Spaces Per Unit of Measure</b>
Industrial or Research Establishments	Five (5) plus one (1) for every one (1) employee in the largest working shift. Parking spaces on the site shall be provided for all construction workers during the period of plant construction
Wholesale or Warehouse Facilities	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every two thousand (2,000) square



	feet of gross floor area, whichever is greater. Any retail or service area shall be in addition to the above
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**SECTION 3.7.3 (RESERVED FOR FUTURE USE)**

**SECTION 3.7.4 OFF-STREET WAITING AREA AND STACKING SPACES FOR DRIVE-THRU FACILITIES**

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking, shall be provided for each drive-thru transaction station of a restaurant.
- B. Self-service motor vehicle car wash establishments shall provide four (4) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self service, shall provide stacking spaces equal in number to five (5) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by twenty (20) feet. A drying lane fifty (50) feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
- C. An off-street waiting space is defined as an area ten (10) feet wide by twenty (20) feet long.

**SECTION 3.7.5 OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION, AND MAINTENANCE**

All off-street parking lots shall be laid out, constructed, and maintained in accordance with the following requirements:

- A. Review and Approval Requirements: In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Article IV. In the event that proposed off-street parking is not part of a development requiring site plan review, the applicant shall submit a parking plan to the County Planning Commission for review and approval.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate the location of the proposed parking in relation to other uses on the site and on adjoining sites, the proposed means of ingress and egress, the number and dimensions of parking spaces, and the method of surfacing. Existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout shall also be shown.

Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a Certificate of Compliance can be issued for the parking lot and for the building or use the parking is intended to serve.

- B. Layout Requirements: Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

<b>Parking Patterns</b>	<b>Lane Width</b>	<b>Parking Space Width</b>	<b>Parking Space Length</b>	<b>Total width of one tier of stalls and maneuvering lane</b>	<b>Total width of two tiers of stalls and maneuvering lane</b>
0° (Parallel Parking)	12 ft.	8 ft.	23 ft.	20 ft. (one way) 32 ft. (two way)	28 ft. (one way) 40 ft. (two way)
30° to 53°	12 ft.	8 ft.	20 ft.	32 ft.	52 ft.
54° to 74°	15 ft.	8 ft.	20 ft.	36 ft.	58 ft.
75° to 90°	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.

- C. Access: All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.
- D. Ingress and Egress: Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a non-residential district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district.
- E. Surfacing and Drainage: The entire parking area, including parking spaces and maneuvering lanes, shall have an asphalt or concrete surface; and shall be graded and drained so as to dispose of surface water which might accumulate on such area. No surface water from such parking area shall be permitted to drain onto adjoining private property or across a public sidewalk. Parking lots shall be continuously maintained with a hard, smooth, dust-proof surface at all times.
1. In the AF and AG zoning district permitted/special use commercial uses may request approval of gravel or hard surface pervious parking areas from the Zoning Board of Appeals or Plan Commission during Special Use procedures.(*amendment #14-003*)
- F. Bumper Stops: Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.
- In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases, where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.
- G. Striping: All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.
- H. Screening: All off-street parking areas, except those serving single and two-family residences, shall be screened in accordance with the provisions set forth in Section 3.6.
- I. Parking Setbacks: All parking setbacks, as required elsewhere by this Ordinance, shall be maintained.
- J. Landscaping: Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped with lawns,

deciduous shrubs, evergreen plant material, and ornamental trees. All such landscaping shall be maintained in a health growing condition, neat and orderly in appearance.

- K. **Lighting:** All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded to the surface so as not to shine onto any adjacent properties, public right-of-ways or sky.
- L. **Signs:** Accessory directional signs shall be permitted in parking areas in accordance with Article 3.43.
- M. **Buildings:** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- N. **Additional Requirements:** In addition to the above requirements, parking areas shall comply with additional requirements or conditions which may be deemed as necessary by the Planning Commission for the protection of abutting properties in a residential district.
- O. **Delay in Construction:** In instances where the Zoning Board of Appeals determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather, but the Zoning Board of Appeals shall require a cash or surety bond (Section 5.2) in the anticipated amount of the parking lot construction costs.

#### **SECTION 3.7.6 OFF-STREET LOADING SPACE REQUIREMENTS**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry cleaning establishments, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site.

- A. Such spaces shall be provided as follows:

<b>Gross Floor Area (In Square Feet)</b>	<b>Loading and Unloading Spaces</b>	
	<b>10'x 25' space</b>	<b>10'x 50' space</b>
0 - 1,999	NA	NA
2,000 - 4,999	1	NA
5,000 - 19,999	NA	1
20,000 - 49,999	NA	2
50,000 - 79,999	NA	3
80,000 - 99,999	NA	4
100,000 - 149,999	NA	5
150,000 and over	NA	5 <sup>a</sup>

- a. One additional space for each fifty thousand (50,000) square feet of floor area in access of one hundred fifty thousand (150,000) square feet.

- B. All loading spaces shall meet all minimum yard setback requirements in accordance with Section 2.21.
- C. Loading space areas shall be provided with a pavement having an asphalt or concrete so as to provide a permanent, durable and dustless surface.
- D. All loading spaces shall have a minimum of fourteen (14) foot high clearance.
- E. Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.
- F. No loading space shall be located closer than fifty (50) feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six (6) feet in height.
- G. Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
  - 1. Each business served shall have direct access to the central loading area without crossing streets or alleys.
  - 2. Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.
  - 3. No building served shall be more than 500 feet from the central loading area.
- H. The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

**SECTION 3.8 STORAGE OF OBNOXIOUS MATTER IN OPEN CONTAINERS PROHIBITED.**

No garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be visible from any street.

**SECTION 3.9 SOIL EXCAVATION OR FILLING.**

- A. The deposit or burying of garbage and refuse anywhere in Mecosta County is expressly prohibited.
- B. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the Building Official, and a building permit has been issued for said building development.

**SECTION 3.10 OPEN STORAGE OR DUMPING ON LAND PROHIBITED**

The use of land for the open storage or collection or accumulation of human-made materials, or for the dumping or disposal of scrap metal, junk, junk cars, parts of automobiles, trucks, trailers, manufactured homes and boats, tires, garbage, rubbish, or other refuse or of ashes, slag or other wastes or by-products, shall not be permitted in any zoning district.

### **SECTION 3.11 COMMERCIAL VEHICLES IN RESIDENTIAL AREAS**

- A. Purpose: The purpose of restrictions on commercial vehicles is to preserve the health, safety and general welfare of persons and property in areas designed and utilized for single family residential development. The parking of large commercial vehicles are frequently impediments to the ingress and egress of emergency vehicles and equipment, and are frequently unsafe when operated on residential streets. The noise, exhaust emissions and appearance of such commercial vehicles tend to impair the health, safety and general welfare of the people of the County.
- B. Residential Parking Prohibited: No commercial vehicle over one and one-half ton rating shall be parked in a LR, R-2, R-3 or R-4, residentially zoned or used area. Provided however, this provision shall not apply to commercial vehicles temporarily parked less than eight (8) hours in a residential area in conjunction with maintenance or service to a residential property.
- C. Presumption of Ownership: In any proceeding for violation of any parking provision of this Section, the person to whom a commercial vehicle is registered, as determined from the registration plate displayed on said motor vehicle, shall be presumed in evidence to be the person who committed the violation charged.

### **SECTION 3.12 OUTDOOR STORAGE OF RECREATION AND OTHER VEHICLES AND EQUIPMENT IN SINGLE FAMILY RESIDENTIAL DISTRICTS**

The outdoor storage or parking of any airplane, antique or racing automobile, boat, boat hoist or dock, float, trailer, trailer coach, camping trailer, motorized home, dismountable travel equipment of the type adaptable to light duty trucks, and other equipment or vehicles of a similar nature, shall be permitted in all LR, R-1, and R-2 single family residential districts, provided the following minimum conditions are met:

- A. Such vehicles so kept or stored shall be in good repair. Open storage of partially or disassembled component parts of said uses is prohibited.
- B. The storage of a vacant manufactured or pre-manufactured dwelling in any district shall be prohibited; with the exception of approved and permitted sales and service facilities located in a designated commercial district.

### **SECTION 3.13 ROAD FRONTAGE REQUIREMENTS (AMENDMENT 04-001)**

All lots or parcels except in Districts AG and AF shall have frontage along a public road or a private road as approved by the County Planning Commission in accordance with Section 3.21 of the Mecosta County Zoning Ordinance. Lots or parcels in Districts AG and AF may use a permanent, private easement of record; such easements shall have a width of at least sixty-six (66) foot. On a lot of record that derives its access from a private easement, the lot line that intersects the easement shall be considered the front lot line.

### **SECTION 3.14 SIDEWALKS**

For all developments requiring site plan approval, either a new public sidewalk or the reconstruction of existing sidewalks, shall be required to be a minimum 4 inch thick and 5 foot wide along the perimeter of the lot which abuts any major, intermediate or collector street as defined in the County Master Plan. New or reconstructed sidewalks or bikeways shall be aligned with existing or proposed sidewalks or bikeways. The Planning Commission may waive the

requirement for sidewalks in areas not already served by sidewalks or if the installation of sidewalks would serve no public benefit.

### **SECTION 3.15 KEEPING OF FARM ANIMALS AND OTHER ANIMALS**

The keeping, raising, or breeding of animals, poultry or livestock, including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits and similar animals commonly kept as pets) outside of the R-1, AF and AG zoning district shall be prohibited, except as may be permitted by and under conditions of public safety, comfort, convenience and quiet use of property imposed by the Zoning Board of Appeals. Horses may be kept in the LR District provided that suitable facilities are provided and upon review and approval of the Mecosta County Planning Commission.

- A. The following guidelines are for the keeping of pets or domestic animals in all zoning districts, excluding those properties which are operating as a legal conforming kennel.
  - 1. 3 dogs, cats or other household animals, six months or older, on all properties up to one (1) acre in size
  - 2. 6 dogs, cats, or other household animals, six months or older, on all properties between 1+ acres and 3 acres in size
  - 3. 10 dogs, cats or other household animals, six months or older, on all properties between 3+ acres and 10 acres
  - 4. Maximum number of dogs, cats, or other household animals, six months or older, on all properties 10+ acres, not operating as a kennel, is 15.
- B. Hobby Kennels are permitted in all districts and required to follow the rules outlined under Section 3.15 A. above.
- C. The keeping of chickens, no roosters, is permitted on residentially zoned properties (R-2, R-3, R-4, and LR) which are over one acre in size. The requirements are as follows:
  - 1. 10 chickens per acre with a maximum of 25 chickens on any property
  - 2. Chickens are not permitted to run at large and must be kept in a fenced in area.
  - 3. All coops and fenced areas must meet setback requirements of the ordinance and must be located 50 feet from existing residential structures (not to include the property owners).
  - 4. All coops and fenced area must be adequate enough to house chickens.
  - 5. All coops must be built out of wood or steel and be kept in good condition.
  - 6. Manure must be disposed of according to Generally Accepted Agricultural Management Practices (GAAMPs). (*Amendment No. 13-002*)

### **SECTION 3.16 DUMPSTERS OR OUTDOOR TRASH RECEPTACLES**

Any new or altered use which requires site plan review under Section 4 and has an outdoor trash storage area shall comply with the following requirements:

- A. Any outdoor trash storage area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
- B. A decorative screening wall of six (6) feet in height shall enclose three (3) sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. Screening gates may be required by the Planning Commission when deemed necessary to obscure a trash receptacle from view from a public right-of-way. The surface under any such storage area shall be constructed of concrete which complies with local building requirements.
- C. In no instance shall any such refuse be visible above the required enclosure.
- D. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
- E. Any such storage shall be located in a rear yard or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.

### **SECTION 3.17 SWIMMING POOL REGULATIONS**

- A. Permit Application: It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first obtaining a zoning permit.
- B. Location: Outdoor swimming pools shall be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.
- C. Nuisance: Any such outdoor swimming pool installed, operated or maintained in violation of provisions of this Section shall constitute a nuisance, and the County may, in addition to the penalties herein set forth in Article 8, maintain any proper action for the abatement of such nuisance.
- D. Maintenance: The pool shall be maintained in a clean and healthful condition in accordance with County public health and safety requirements.

### **SECTION 3.18 PERFORMANCE STANDARDS.**

No activity, operation, or use shall be permitted on any property which by reason of the emission of dust, odor, fumes, smoke, vibration, radiation, noise or disposal of waste is deleterious to other permitted activities in the zone district or is obnoxious or offensive to uses permitted in neighboring districts, or is harmful to the general health, safety or welfare of the community. The following standards shall apply:

- A. Noise
  - 1. Noise Level Limits. No operation or activity shall be carried on which causes or creates measurable noise levels which have an annoying or disruptive effect on surrounding properties. Noise emanating from a use in any district shall not exceed the level of

ordinary conversation at the boundaries of the lot. Short intermittent noise peaks may be expected if they do not exceed normal traffic noise peaks at any point on the lot boundaries.

2. Permitted Exemptions. Noise resulting from the following activities shall be exempt from the maximum permitted sound levels provided such activity occurs in a legally-accepted manner:
  - a. Temporary construction activity that occurs between 7:00 am and 7:00 PM.
  - b. Performance of emergency work.
  - c. Warning devices necessary for public safety, such as police, fire, and ambulance sirens and train horns.
  - d. Lawn care and house maintenance that occurs between 7:00 am and 9:00 PM.

**B. Vibration**

1. Permitted Vibration: Vibration is the oscillatory motion of a solid body. Machines or operations which cause vibration may be permitted in industrial districts, provided that: No operation shall generate any ground- or structure-borne vibrational motion that is perceptible to the human sense of touch beyond the property line of the site on which the operation is located, and
2. Permitted Exemptions: Vibrations resulting from temporary construction activity that occurs between 7:00 am and 7:00 pm. shall be exempt, provided that such activity occurs in a legally-accepted manner.

- C. Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion: The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, or other applicable state or federal regulations. No person, firm or corporation shall operate or maintain any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.
- D. Odor: Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life.
- E. Glare and Heat: Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half ( $\frac{1}{2}$ ) of one (1) foot-candle when measured at any point along the property line of the site on which the operation is located. Any operation which produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.
- F. Fire and Safety Hazards: The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all applicable state, county and local regulations,



including the state Fire Prevention Act, Michigan Public Act 207 of 1941, as amended. Further, all storage tanks for flammable liquid materials above ground shall be located at least one hundred and fifty (150) feet from all property lines, and shall be completely surrounded by earth embankments, dikes, or another type of approved retaining wall capable of containing the total capacity of all tanks so enclosed. Below-ground bulk storage tanks which contain flammable material shall be located no closer to the property line than seventy-five (75) feet.

- G. Hazardous Substance Containment and Storage: The storage and handling of hazardous substances shall comply with all applicable state, county and local regulations. There shall be no general purpose floor drains in structures in which hazardous substances are kept. Above ground storage containers for hazardous materials shall require secondary containment facility capable of containing the total volume of all hazardous substances.
- H. Sewage Wastes and Water Pollution: Sewage disposal and water pollution shall be subject to the standards and regulations established by federal, state, county and local regulatory agencies, including the Michigan Department of Health, the Michigan Department of Natural Resources, the Mecosta County Health Department, and the U. S. Environmental Protection Agency.
- I. Gases: The escape of or emission of any gas which is injurious or destructive to life or property, or which is explosive, is prohibited. Gaseous emissions shall be subject to regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, the federal Clean Air Act of 1963, as amended, and any other applicable state or federal regulations.
- J. Electromagnetic Radiation and Radio Transmission: Electronic equipment required in an industrial, commercial, or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.
- K. Radioactive Materials: Radioactive materials, wastes and emissions, including electromagnetic radiation such as from an x-ray machine, shall not exceed levels established by Federal agencies which have jurisdiction.

### **SECTION 3.19 HOME OCCUPATIONS (AMENDMENT NO. 17-001)**

- A. Home Office: A home office is permitted by right in any district by right as a secondary use as long as it complies with the requirements of this section.
  - 1. The home office shall be owned and operated on by a member of the family residing in the dwelling unit
  - 2. Any home office shall be confined to and operated within the principal structure or accessory structures.
  - 3. There shall be no article or service sold or offered on the premises that would generate vehicle or customer/client traffic to the premise.
  - 4. There shall be no signs relating to the home office.
  - 5. There shall be no display or exterior storage of materials or products or any other indication of the home office.

6. The home office shall not produce any noise, vibration, smoke, dust, odors, heat, or glare.
  7. There shall be no employees from outside the residence.
- B. Home Based Business: A home occupation may be permitted as a secondary use on the property as a special use if it complies with the requirements of this section.
1. The home based business shall be owned and operated by a member of the family residing in the dwelling unit with not more than one employee who is not a family member.
  2. The home occupation shall be confined to and operated within the principal or accessory structures.
  3. No exterior displays or signs other than those permitted under Section 3.43,
  4. No exterior storage of materials or exterior indication of the home occupation as a variation from the residential character of the principle structure.
  5. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be noticeable beyond the property lines.
  6. The home base industry shall not create any traffic or parking problems.
    - a. Parking for patrons shall be provided on the property, off the road with a minimum of a gravel/packed dirt surface
    - b. Parking for employees shall be provided on the side or the rear of the property to decrease the visual impact
    - c. Adequate parking and turn around space shall be provided for any large deliveries or vehicles
- C. Small Home Based Industry: A home base business may be permitted as a special use, in the Agricultural, Agricultural Forestry and R-1 District only, if it complies as follows:
1. The small home base industry shall be owned and operated by a member of the immediate family residing in the dwelling unit with a total maximum number of non-family employees not to exceed 10.
  2. The home based industry may operate outside and beyond the premises however, the materials associated with the business shall be confined to principle or accessory structures.
  3. The business equipment, as much as is physically possible, should also be confined to principle or accessory structures.
    - a. If unable to confine then the property owner shall provide a detailed plan on how to shield the equipment from the road or neighboring property owners (either fencing or landscaping).
  4. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be noticeable beyond the property lines of the home based industry.
  5. The home base industry shall not create any traffic or parking problems.

- a. Parking for patrons shall be provided on the property, off the road with a minimum of a gravel/packed dirt surface
  - b. Parking for employees shall be provided on the side or the rear of the property to decrease the visual impact
  - c. Adequate parking and turn around space shall be provided for any large deliveries or vehicles
6. Any home based industry approved under this section may, without further hearings, construct or place an accessory structure/addition under 500 sq. ft./and 30,000 cubic feet, one time only. Said structure/addition must still comply with all other sections of this ordinance, any previous conditions of approval, and all other local, state, and federal regulations.
  7. The Home based industry which sell products made on site shall be limited to one display product visible from the road. All other products must be stored where they are not visible from the road or neighboring property owners.
  8. Signs as permitted under Section 3.43.

### **SECTION 3.20 WIRELESS COMMUNICATIONS FACILITY REQUIREMENTS**

- A. Permitted as Principal Uses. In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval as provided in Article IV, Site Plan Review, and also subject to the conditions set forth in subparagraph (D) below:
  1. Attached wireless communication facilities within all districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed;
  2. Colocation of an attached wireless communication facility which has been previously approved for colocation by the Planning Commission;
  3. Wireless communication facilities attached to a utility pole located within a right-of-way, where the existing pole is not modified to materially alter the structure and/or result in an impairment of sight lines or other safety interests; or
  4. Wireless communication facilities with monopole support structures of no more than one-hundred-fifty (150) feet in height within I, AG, AF, and C-3 zoning districts.
- B. Permitted as Special Land Uses. Wireless communication facilities with monopole or lattice tower support structures with a height of greater than one-hundred-fifty (150) feet shall be permitted as special land uses or special accessory uses only in any R-3, C-1, or C-2 zoning district, subject to the standards of Article V, Special Use Permits, except that they shall not be located within five-hundred (500) feet of any R-1 or R-2 zoning district, or within a distance equal to the height of the support structure from the right-of-way line of any interstate or limited-access highway or other major thoroughfare. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.
- C. Permitted as Special Land Uses in Other Districts. If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in subparagraphs (A) and

(B) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with subparagraphs (A) or (B) above, a wireless communication may be permitted as a special land use or a special accessory use within all other zoning districts, subject to the standards of Article IV, Special Use Permits, and further subject to the following conditions: (*Amendment No. 13-004*)

1. Such wireless communication facilities shall be located on a priority basis only on the following sites: a) governmentally owned sites; b) religious or other institutional sites; c) public or private school sites; or d) public park and other large permanent open space areas when compatible.
2. Wireless communication support structures in such locations shall be of an alternative or stealth design such as (without limitation) a steeple, bell tower, tree, or other form which is compatible with the existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

**D. Required Standards for Wireless Communication Facilities in All Districts.**

**1. Required Information.**

- a. Site Plan. A site plan prepared in accordance with Article IV, Site Plan Review, also showing as-built drawings for all proposed attached wireless communication facilities and/or wireless communication support structures.
- b. Demonstration of Need. Demonstration of the need for the proposed wireless communication support structure due to a minimum of one of the following:
  - a) Proximity to an interstate or limited-access highway or major thoroughfare.
  - b) Proximity to areas of population concentration.
  - c) Proximity to commercial or industrial business centers.
  - d) Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.
  - e) Other specific reasons.
- c. Service Area and Power. As applicable, a description of the planned, proposed, or existing service area of the facility, and wireless communication support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned.
- d. Map of Other Facilities Nearby. A map showing existing or proposed wireless communication facilities within Mecosta County, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the County, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If the information is on file with the County, the applicant shall update as needed. This Ordinance shall serve as the promise to maintain confidentiality as permitted by law. A request for confidentiality must be prominently stated.
- e. Data on Other Facilities Nearby. For each location identified by the applicant/provider, the application shall include the following data, if known, with

the applicant/provider expected to exercise reasonable diligence to obtain information:

- a) The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.
  - b) Evidence of property owner approvals.
  - c) Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.
  - f. Fall Zone Certification. To determine the required setbacks, a Michigan registered engineer shall submit a determination and certification regarding the manner in which the proposed structure will fall.
  - g. The fall zone or collapse distance as cited in the certification shall therefore be the minimum setback required. However, in the absence of an engineer's certification, the minimum setback shall be equal to the total height of the tower.
  - h. Description of Security for Removal. A description of the security for the wireless communication support structure to ensure removal and maintenance, in accordance with Section 3.14, Financial Security (Performance Guarantee). The security shall be a promise of the applicant and owner of the property to timely remove the facility as required, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by Mecosta County in securing removal.
  - i. Data on FCC and FAA Approval. A copy of the application submitted to the Federal Communications Commission and Federal Aviation Administration detailing technical parameters authorization for the facility.
2. Compatibility of Support Structures. Wireless communication support structures shall not be injurious to the neighborhood or detrimental to the public safety and welfare. Support structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment. In addition, all structures shall be equipped with an anti-climbing device to prevent unauthorized access.
3. Maximum Height. The maximum height of wireless communication support structures shall be: a) two-hundred-fifty (250) feet; or b) the minimum height demonstrated to be necessary by the applicant; or c) such lower heights as approved by the Federal Aviation Administration. The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within respective zoning districts.
4. Setbacks from Non-Residential Districts. Wireless communication support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the required setbacks for the principal buildings for the zoning district in which the support structure is located.
5. Variances. The Zoning Board of Appeals may grant variances for the setback of a wireless communication support structure, to reduce its visual impact, or to meet the

required standards of (D)(10), Co-location. The Zoning Board of Appeal may also grant variances for the height of a support structure of up to fifty (50) feet only in cases where a variance would permit additional co-locations.

6. Compatibility of Accessory Structures. Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building, provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.
7. Appearance of Support Structures. The color of wireless communication support structures and all accessory buildings shall minimize distraction, reduce visibility, maximize aesthetics, and ensure compatibility with surroundings. The applicant shall be responsible for the maintenance of the wireless communication facility in a neat and orderly condition, as well as maintaining the safety of the site and structural integrity of any structures.
8. Federal and State Requirements. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan. Structures shall be subject to any State and Federal regulations concerning nonionizing electromagnetic radiation. Furthermore, if more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the approval and permit for the structure shall be subject to revocation by the county. The cost for testing and verification of compliance shall be borne by the operator of the antenna.
9. Lighting. Lighting on a wireless communication facility shall be prohibited unless otherwise required by the Federal Aviation Administration. The applicant shall propose a height reduction to eliminate the need for lighting, or shall submit detailed technical data demonstrating the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for their purposes.
10. Co-location. All wireless communication support structures shall accommodate no more than three (3) attached wireless communication facilities. Support structures shall allow for future rearrangement of attached wireless communication facilities to accept other attached facilities mounted at varying heights.
  - a. When Co-location is Not “Feasible”. Wireless communication support structures shall not be approved unless the applicant documents that its attached wireless communication facilities cannot be feasibly co-located or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:
    - a) The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by licensed engineer, and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - b) The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed engineer, and the interference cannot be prevented at a reasonable cost.

- c) Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
  - d) Other unforeseen reasons that make it infeasible to locate the planned communications equipment upon an existing support structure or other structure.
- b. Determining Feasibility of Co-location. Co-location shall be deemed to be "feasible" when all of the following are met:
  - a) The applicant/provider will pay market rent or other market compensation for co-location.
  - b) The site is able to provide structural support, considering reasonable modification or replacement of a facility,
  - c) The co-location being considered is technically reasonable and will not result in unreasonable interference, given appropriate physical adjustments.
  - d) The height of the structure necessary for co-location will not be increased beyond maximum height limits.
- c. Refusal to Permit Co-location. If a party who owns or otherwise controls a wireless communication support structure shall fail or refuse to alter a structure to accommodate a feasible co-location, such facility shall thereafter be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- d. Refusal to Co-location Constitutes Violation. If a party who owns or otherwise controls a facility shall fail or refuse to permit a feasible co-location, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible co-location shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of this Section of the Zoning Ordinance.
- e. New Structures Prohibited. Consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new support structure within Mecosta County for a period of five (5) years from the date of the failure or refusal to permit the co-location.
- f. Variance from Co-location. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.
- g. Offer of Co-location Required. An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for co-location. The list of potential users shall be provided by Mecosta County based on those entities who have requested approval of a wireless communication facility, current FCC license holders, and other entities requesting to be on the list. If, during a period of thirty (30) days after the notice letters are sent to

potential users, a user requests, in writing, to co-locate on the new support structure, the applicant shall accommodate the request(s), unless co-location is not feasible based on the criteria of this Section.

11. Removal. When a wireless communications facility has not been used for ninety (90) days, or ninety (90) days after new technology is available which permits the operation of a facility without the requirement of a wireless communication support structure, all or parts of the wireless communications facility shall be removed by the users and owners of the facility and owners of the property.

The removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.

- a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the facility.
  - b. If the required removal of the wireless communications facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, Mecosta County may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the time application was made for establishing the facility.
12. Radio Frequency Emission Standards. Wireless communication facilities shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions.

13. Effect of Approval.

- a. Subject to subparagraph (b) below, final approval for a wireless communication support structure shall be effective for a period of six (6) months.
- b. If construction of a wireless communication support structure is commenced within two (2) miles of the land upon which a facility has been approved, but upon which construction has not been commenced during the six (6) month period of effectiveness, the approval for the support structure that has not been commenced shall be void thirty (30) days following written notice from Mecosta County of the commencement of the other support structure. Such voiding shall apply when the applicant granted approval of the support structure, which has not been commenced, demonstrates that it would not be feasible to co-locate on the support structure that has been newly commenced.

### **SECTION 3.21 PRIVATE ROAD DESIGN AND GUIDELINES**

- A. Intent. The intent of this Section is to ensure adequate access to public streets and help ensure adequate police and fire protection for roads not intended to be dedicated to the public. This



Section includes standards on the design and maintenance of private roads to help meet this intent.

**B. Applicability.**

1. The procedures and standards of this Section shall apply to all private roads including those in developments regulated by the Condominium Act, Act 59 of 1978, as amended, and all private roads in Mecosta County. For purposes of interpretation, private roads in a condominium development or multiple family development shall not include parking lot aisles or drives connecting parking lots to internal roads.
2. No private road providing access to two (2) or more units shall be constructed, extended, improved or relocated unless a permit authorizing such activity has been issued by the Mecosta County Planning Commission.

**C. Required Notice and Maintenance Agreement.**

1. Written notice shall be given to each prospective purchaser by the seller of the divided parcel containing a legal description of any and all private roads abutting, traversing, and/or adjacent to the original parcel prior to the division, said notice shall be attached to each transmitting instrument of interest in each successive division, and said legal description of the private road shall be recorded with the Mecosta County Register of Deeds at the time of land division.
2. A private road maintenance agreement shall also be provided which states that Mecosta County bears no responsibility to maintain the road on the private easement including repaving, resurfacing, grading, snow removal and dust control. The agreement shall further hold the abutting property owners as responsible for the maintenance of the road to prevent extreme bumpy conditions, potholes or conditions that would cause passenger vehicles to be immobilized. The agreement shall further state that adequate access for emergency vehicles will be available at all times.
3. The Easement Maintenance Agreement shall contain a provision to permit the County Board to authorize the repair of any private road which is not being maintained adequately to permit safe access by users and emergency vehicles, and to assess the cost of such repair, including the costs of engineering and administration, to the signatories of the Agreement on an equitable basis. The decision to authorize repair of a private road shall be at the County Board's sole discretion in accordance with its legislative powers. Required repairs shall be in accordance with the construction standards in this Ordinance. The County shall notify the signatories of the Easement Maintenance Agreement by first class mail, a minimum of sixty (60) days prior to commencement of the required maintenance work to provide an opportunity for the owners to complete the work and to provide appropriate notice and notification to the affected property owners.
4. The proposed Easement Maintenance Agreement shall be recorded with the Mecosta County Register of Deeds, a copy of which shall be placed on file with the County.

**D. Submittal Requirements and Review Procedure.**

1. Submittal Requirements. The following items shall be provided on a site plan, submitted either separately or combined with other required site plan submittal information, to Mecosta County Planning Commission with an application for a private road construction permit:

- a. completed application form and fee;
  - b. parcel number and name of owner for all properties having legal interest in the private road;
  - c. proposed land divisions to be made from entire area including a preliminary boundary and parcel division plan showing approximate areas of the proposed parcels;
  - d. plans, designed and sealed by a Civil Engineer registered in the State of Michigan showing location, dimension, and design of the private road and existing and proposed elevation contours within all areas to be disturbed or altered by construction of the private road;
  - e. location of all public or private utilities located within the private road right-of-way or easement, or within a utility easement parallel and adjacent to the private road easement such as water, sewer, telephone, gas, electricity and cable television;
  - f. location of any lakes, streams, drainage ways, 100-year floodplains or MDEQ regulated wetlands within one-hundred (100) feet of the proposed private road or easement;
  - g. sufficient topographical detail to indicate the road grades will be acceptable and proper drainage can be provided for the easement and road surfaces;
  - h. the direction of drainage flow from the private road easement to a suitable storm water outlet shall be indicated by appropriate drainage direction arrows;
  - i. the location of all existing and proposed drainage facilities and structures and any other structures and any other physical conditions existing adjacent to the subject private road; and
  - j. a “Declaration of Restriction for Private Road Construction and Maintenance” in a format approved by Mecosta County.
  - k. Review procedure. The private road plans shall be submitted to the Zoning Administrator for review and approval by the Planning Commission, as appropriate.
- E. Design Standards.
- 1. All private road easements shall be a minimum of sixty-six (66) feet in width. The easement shall be shown on the land division records as a perpetual easement for roadway purposes leading to a public street.
  - 2. Maximum gradient shall be six (6) percent, or a six (6) foot rise in one-hundred (100) feet of horizontal distance. Minimum gradient shall be four-tenths of a percent (0.4%). Vertical curves shall be used at all changes in grade. Gradient shall not exceed three (3) percent within fifty (50) feet of any intersection of the private road with any other road.
  - 3. Minimum horizontal curve radius shall be one-hundred-seventy-five (175) feet except a minimum of one-hundred-fifty (150) feet may be used where the road serves less than five (5) homes or where natural features would be preserved that would be lost if a wider radii were required.

4. The intersection of public and private roads shall be as near perpendicular (ninety (90) degrees) as practical, but in no case will be less than seventy-five (75) degrees. All corners at an intersection of two public streets or a private road intersection with a public street shall maintain a clear vision zone free of buildings, fences, walls, signs, structures and landscaping. The clear vision zone shall be provided vertically between a height of thirty (30) inches and six (6) feet above the centerline elevation of the intersecting streets. The clear vision area shall be provided within a triangular area twenty-five (25) feet in length measured along abutting public street right-of-way lines with the third side being a line connecting these two sides. A non-obscuring fence may have a maximum height of thirty-six (36) inches in a clear vision zone.
5. Drainage course easements shall be provided, if required by Mecosta County Drain Commissioner, based on the site's topography.
6. Centerline of construction shall coincide, insofar as practical, with centerline of the private road easement.
7. An adequate sub-grade shall be prepared by removing topsoil, muck or other surface material to a suitable sub-surface condition. The width of the stable sub-surface condition shall be a minimum cross-section of the thirty-three (33) feet in addition to the area required for appropriate swaled ditching in the event drainage to a public drainage system is not available; otherwise a storm sewer is required. When a storm sewer system is included, the cross-section for sub-surface preparation need not exceed the width required for a sealed surface and drainage appurtenances.
8. The cross-section width of the impervious surface area, base materials, and curb or open ditch design shall be in accordance with the following standards and specifications.
9. Maximum length of a private road that provides sole access to properties shall be one-thousand-five-hundred (1,500) feet unless otherwise approved by the Planning Commission. A cul-de-sac shall be required in accordance with the following standards and specifications.
10. A maximum of ten (10) single family units may be served by a single private road access. The Planning Commission may increase this requirement upon a finding that there is appropriate road design and reasonable access and the Mecosta County Road Commission approves the design. Any further increase in the number of units shall require a variance from the Board of Zoning Appeals.
11. The improved surface of the private road shall be setback a minimum of fifteen (15) feet from any adjoining lot or parcel which does not derive access from the easement or private road.
12. Minimum tangent distance (straight-away) between two (2) curves shall be fifty (50) feet.
13. Private road design plans shall document that minimum stopping and intersection sight distances meet the design criteria outlined in the most recent edition of the American Association of State Highway and Transportation Officials (AASHTO) Manual "A Policy on Geometric Design for Highways and Streets."
14. All signs within the private road or access easement shall be identified on the site plan and be in accordance with the Michigan Manual of Uniform Traffic Control Devices, unless the Planning Commission approves another type of design for consistency with the character of the development. Street signs shall be provided at all intersections. These

- signs shall contrast in terms of color with public street signs, and shall indicate the road is private.
15. Sidewalks or bicycle paths may be required by the Planning Commission. Any such facilities shall be constructed in accordance with Section 3.14.
  16. Street lights may be required by the Planning Commission, where determined to be beneficial for safety or security reasons, or considered to be an important element of the overall site design. Any light fixtures shall be approved by the Planning Commission.
  17. Private roads and driveways (excluding driveways serving one (1) or two (2) dwelling units) within a development shall align directly across from other private roads or driveways or be offset at least one-hundred-fifty (150) feet measured centerline to centerline. If a private road is to intersect with an arterial roadway there shall be a minimum offset of two-hundred-fifty (250) feet.
  18. All road design features and geometries shall meet the standards and construction specifications specified herein. A developer of a private road as herein defined is advised to use the Mecosta County Commission's standards in the event it is intended to request the Road Commission to assume responsibility for said road, or there is reasonable likelihood that the private road could become a public street in the future.
- F. Required Road Name. All names shall be approved by the Planning Commission with consultation by the Mecosta County Road Commission and 911 Emergency Services Agency. Road names shall not be permitted which might cause confusion with names of existing roads in or near the County. Roads that will be continuations of existing roads shall be called by the same names of such existing road. There shall be provided road signs at every road intersection meeting the specifications of the Mecosta County Road Commission and as approved by the Planning Commission. All cost of such signs shall be borne by the developer or property owner(s) of the lots to be served by the private road.
- G. Construction Permits. Construction permits shall be obtained from the Mecosta County Road Commission before entrances are constructed into County road rights-of-way. Private roads constructed under the provisions of this Section shall not require the Road Commission to accept said area for maintenance at any future date. Mecosta County reserves the right to require construction to higher standards where warranted by special topographic or geographic conditions.
- H. Road Completion Required Prior to Building Permit Issuance. No building permit shall be issued by Mecosta County fronting on any private road until said roadway is improved to the specifications contained in this Section. The Zoning Administrator shall inspect and approve the private road improvements prior to issuing any building permits along said road. Mecosta County shall establish a fee to cover the cost of such inspections, said fee to be paid by the developer.
- I. Variances. An appeal may be taken to the Zoning Board of Appeals pursuant to the terms and conditions of this Zoning Ordinance.
- J. Existing Nonconforming Private Roads and Access Easements. It is recognized that there exist private roads, service roads and access easements which were lawful prior to the adoption of this Section which are inconsistent with the standards herein. Such roads are declared by this Section to be legal nonconforming roads or easements. The intent of this Section is to permit legal nonconforming roads and easements to continue and undergo

routine maintenance for safety purposes. This Section is also intended to allow new construction to occur on existing lots which front along such a road on the adoption date of this Section, if the roads are reasonably capable of providing sufficient access for the uses permitted in the zoning district and for provision of emergency service vehicles.

However, this Section is also intended to discourage the extension of nonconforming roads or increase the number of lots or building sites served by such a road, except in platted subdivisions, divisions of land or site condominium projects existing on the adoption date of this Section, unless provisions are made to upgrade such road to comply with the standards herein. Any reconstruction, widening or extension of a non-conforming private road or access easement shall be in conformity with this Section.

For purposes of determining whether a lot along a private road or access easement qualifies as an “existing lot” as used in this Section, at least one (1) of the following conditions must have existed at the time this Section was adopted:

1. The lot consists of a “condominium unit” for which a master deed had been recorded with the Mecosta County Register of Deeds in accordance with the requirements of the Michigan Condominium Act and other applicable laws and ordinances.
2. The lot consists of a parcel that was described by metes and bounds as recorded by a deed or as a land contract, and registered with the Mecosta County Register of Deeds.
3. The lot had been assigned a unique parcel number by the Mecosta County Register of Deeds and was individually assessed and taxed on that basis.

**SECTION 3.22 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES (AMENDMENT 14-009)**

**A. Purpose and Findings.**

Mecosta County hereby makes its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, based on the judicial opinions and reports related to such secondary effects, and the findings and recommendations of the Mecosta County Planning Commission as detailed below.

1. In the development of this Zoning Ordinance it is recognized that there are some uses which because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one (1) or more of them are located in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects shall not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in the Zoning Ordinance. These controls are for the purpose of preventing a concentration of these uses within any one (1) area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are otherwise prohibited.
2. In regulating sexually oriented businesses, it is the purpose of the Zoning Ordinance to promote the health, safety, and general welfare of the citizens of Mecosta County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials.

Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

3. Based on evidence of the adverse secondary effects of adult uses presented in reports made available to the Mecosta County Planning Commission, and on findings incorporated in the cases of [Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County](#), 2009 WL 4349319 (M.D. Fla. 2009); *Sensations, Inc. et al., v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *Pap's A.M. v City of Erie*, 529 U.S. 277 (2000); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002), *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 427 U.S. 50 (1976), *Barnes v Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997) *East Brooks Books, Inc. v. City of Memphis*, 48 F.3d 220 (6th Cir 1995); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F.Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Déjà vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999) *Bamon Corp. v. City of Dayton*, 7923 F.2d 470 (6th Cir. 1991); *Threesome Entertainment v. Strittmather*, 4 F.Supp.2d 710 (N.D. Ohio 1998); *J.L. Spoons, Inc. v. City of Brunswick*, 49 F.Supp.2d 1032 (N.D. Ohio 1999); *Triplett Grile, Inc. v. City of Akron* 40 F.3d 129 (6th Cir. 1994); *Nightclubs, Inc. v. City of Paducah*, 202 F.3d 884, 894 (6th Cir. 2000); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Déjà vu of Nashville, Inc., et al. v Metropolitan Government of Nashville and Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir. Dec. 6, 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d (10th Cir. 1998), *Connection Distrib. Co. v. Reno*, 154 F.3d 281 (6th Cir. 1998); *Sundance Assocs. V. Reno*, 139 F.3d 804 (10th Cir. 1998); *American Library Association v. Reno*. 33 F.3d 78 (D.C. Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir. 2000); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413, 1416; (8th Cir. 1994); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 2002 U.S. Dist. LEXIS 1896 (D. Md., Feb 6, 2002); *Currence v. Cincinnati*, 2002 U.S. App. LEXIS 1258 (6th Cir., Jan. 24, 2002); and other cases; and on testimony to Congress in 136 Cong. Rec. S 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S 5636; 134 Cong. Rec. E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona – 1979; Minneapolis, Minnesota-1980; Houston, Texas – 1997; Amarillo, Texas; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Austin, Texas – 1986; Seattle, Washington – 1989; Oklahoma – 1986; Cleveland, Ohio – and Dallas, Texas – 1997; St. Croix County, Wisconsin – 1993; Bellevue, Washington, - 1998; Newport News, Virginia – 1996; New York Times Square study – 1994; Phoenix, Arizona – 1995-98; and also on findings from the paper entitled “Stripclubs According to Strippers; Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from “Sexually Oriented Businesses: An Insider’s View,” by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General’s Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Mecosta County Board finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary

effects, and that the foregoing reports are reasonably believed to be relevant to the problems that Mecosta County is seeking to abate and prevent in the future.

4. FINDINGS. Mecosta County also relies upon findings concerning secondary effects contained in additional reports as well as in cases in accord with those cited above including those upholding regulations of nudity and the time, place, and manner of operation of sexually oriented businesses: *Déjà Vu of Cincinnati, L.L.C. v. Union Township*, 411 F.3d 777 (6th Cir. 2005); *Bronco's Entertainment, Ltd. v. Charter Township of Van Buren*, 2005 U.S. App. LEXIS 18496 (6th Cir. 2005); *Charter Township of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003) (following *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and *California v. LaRue*, 409 U.S. 109 (1972)); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *G. M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *In re Tennessee Public Indecency Statute*, 1999 U.S. App. LEXIS 535 (6TH Cir. 1999); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Jott, Inc. v. Clinton Township*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353 (1995); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Tily B. Inc. v. City of Newport Beach*, 69 Cal. App. 4th 1 (Cal. App. 1997); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 973 F.Supp.1428 (M.D. Fla. 1997); *City of Elko v. Abed*, 2004 Minn. App. LEXIS 360 (Minn. App. 2004); *Center for Fair Public Policy v. Maricopa County Arizona*, 336 F.3d 1153 (9th Cir. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Richland Bookmart, Inc. v. Nichols*, 278 F.3d 570 (6th Cir. 2002); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1998); *Nat'l Amusements Inc. v. Town of Dedham*, 43 F.3d 731 (1st Cir. 1995); *Mitchell v. Comm'n Adult Enter. Est. of the State of Delaware*, 10 F.3d 123 (3d Cir. 1993); *Star Satellite, Inc. v. City of Biloxi*, 779 F.2d 1074 (5th Cir. 1986); *Heideman v. South Salt Lake City*, 2006 U.S. App. LEXIS 2745 (10th Cir. 2006); *Fantasyland Video, Inc. v. San Diego County*, 373 F.Supp. 2d 1094 (S.D. Cal. 2005); *State ex rel. Nasal v. BJS No. 2, Inc.*, 127 Ohio Misc. 2d 101 (Ohio Ct. Comm. Pleas 2003); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471\_2002 (5th Cir. 2002); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, Case No. 2:01-CV-327 (N.D. Ind. 2005); *Summaries of Key Reports Concerning the Negative Secondary Effects of Sexually Oriented Businesses*; *Rome, Georgia—1996*; *San Diego, California—2003*; *Greensboro, North Carolina—2003*; *Dallas, Texas—1997*; and numerous media reports, in finding that:
- a. Sexually oriented businesses, as a category of commercial uses, are often associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
  - b. Illegal and unsanitary acts involving nudity, including lewd conduct, masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, including those businesses which provide private or semi-private rooms, booths, or cubicles for viewing films, videos, or live performances.

- c. Each of the foregoing negative secondary effects constitutes a harm which Mecosta County has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is Mecosta County's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, Mecosta County's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the County. Mecosta County finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.
- B. Adult bookstores and adult movie theatres shall be exempt from the special use process required by ordinance, but shall be required to meet all other ordinances pertaining to adult business uses.
- C. The establishment of the types of adult regulated uses and sexually oriented businesses, as defined in this Zoning Ordinance, shall be prohibited if the establishment of such use will constitute the second such use within a one-thousand (1,000) foot radius (i.e., not more than one (1) such use within one thousand (1,000) feet of another). The distance between uses shall be measured horizontally between the nearest property lines.
- D. It shall be unlawful to hereafter establish any adult regulated use if the proposed regulated use will be within a 410 foot radius, measured between buildings, from any residentially used land and a 700 foot radius, measured between buildings, from the following: any "Class C" establishment licensed by the Michigan Liquor Control Commission; pool or billiard halls; coin-operated amusement centers; discotheque or dance centers which typically cater to teenagers; ice or roller skating rinks; pawn shops; indoor or drive-in movie theaters; public parks, playgrounds, or other recreational uses; churches, convents, monasteries, synagogues, or similar religious institutions; day care centers or nurseries; any public, private or parochial nursery, primary, secondary school, college.
- E. The building and premises, including signs, shall be designed, and constructed so that material depicting, describing, or relating (words, lettering, photographs, silhouettes, drawings, or pictorial representation) to "specified sexual activities" or "specified anatomical areas" (as defined in this Zoning Ordinance) shall not be visible from a point outside the establishment. All signs shall comply with the requirements of this Ordinance.
- F. The merchandise or activities of the sexually oriented business may not be visible from any point outside the business.
- G. The provisions of this Zoning Ordinance regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker or family counselor who is licensed to practice his or her respective profession in the state, or who is permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the state, or to certified members of the American Massage and Therapy Association and certified members of the International Myomassethics Federation.
- H. No person shall reside in or permit any person to reside in the premises of an adult business.
- I. Hours of operation shall be limited to 8:00 am to 2:00 am



- J. All off-street parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.

**SECTION 3.23 TEMPORARY AND PORTABLE BUILDINGS, USES, AND STRUCTURES**

- A. A temporary structure which is less than the minimum building size, a nonconforming or conforming manufactured home may be authorized by the Zoning Administrator for temporary residence for the applicant during the period when a structure conforming to the provisions of this Ordinance, is in the process of erection and completion on the same lot, subject to the following provisions:
1. The location of the temporary structure shall conform to all yard and setback limitations of the zoning district.
  2. The use of the structure and premises shall not adversely affect surrounding properties.
  3. The use of such temporary structures shall be limited to twelve months, beginning with the date of issuance of the permit. The permit may be subject for renewal provided significant progress is made on the construction of the permanent structure.
  4. The use shall comply with all applicable sanitary codes and building restrictions.
- B. Temporary dwellings (recreational units) shall be subject, when permitted, to the following provisions:
1. Permits shall not be required for:
    - a. Recreational vehicles, travel trailers, etc. which are stored as uninhabited accessory uses on any lot or parcel, provided that an active principal use is present and that it is stored in the rear or side yard, no closer than five (5) feet from the property line.
    - b. Motor homes, travel trailers and fifth wheel and similar vehicles (recreational units) which are occupied for a period of up to seven (7) days per calendar year (*Amendment 04-002*), provided that:
      - a) The recreational unit is not rented or leased to the public by the property owner.
      - b) There are no violations of health or sanitary codes.
      - c) The recreational unit is not permanently connected to utilities or sewer/septic systems.
  2. Permits shall be required for:

Recreational units which qualify under item b) above shall be issued a recreational permit for periods over seven (7) days (*Amendment 04-002*); said permit shall be valid for a maximum of one year. The Zoning Administrator may deny the renewal of any permit and require removal of a recreational unit permitted to deteriorate to the point where it is no longer conducive to the public health, safety and general welfare as defined below:

- a. All recreational units that are or hereafter shall become unsafe, unsanitary, or deficient in adequate exits, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare or which by reason of illegal or improper use, occupancy, or maintenance, shall be deemed unsafe buildings or structures.
- b. A vacant recreational unit unguarded or open at a door or window, shall be deemed a fire hazard and unsafe within the meaning of this Ordinance.
- c. Additions to recreational units are expressly prohibited.
- d. Issuance Standards - A permit for a proposed temporary recreational unit shall be issued by the Zoning Administrator to the property owner only if each of the following standards is met by the proposed use:
  - a) The proposed use is clearly of a temporary nature.
  - b) In areas zoned AF and AG: The unit will not be occupied for a continuous period of longer than thirty (30) days and exceed a total of ninety (90) days within any calendar year and the property owner signs a statement in agreement to that effect. (*Amendment 04-002*)
  - c) In areas zoned R-1, R-2, R-3, R-4, and LR: The unit will not be occupied for a continuous period of longer than twenty-one (21) days and exceed a total of forty-five (45) days within any calendar year and the property owner signs a statement in agreement to that effect. (*amendment 04-002*)
  - d) A maximum of one (1) unit is allowed per two acres of property, up to a total of 4 units on each property. One (1) unit is allowed on a property that is less than two (2) acres in size. (*Amendment 04-002*)
  - e) The temporary use shall not endanger the public health, safety or welfare of the county, adjacent residents, or the inhabitants of the structures of the temporary use.
  - f) Structures of temporary uses shall be provided with a safe, sanitary, and effective system for water supply and disposal of wastes and show approval from the County Health Department or municipal sewer where applicable. (*Amendment 24-001*)
  - g) The use will not cause traffic congestion.
  - h) The placement of a recreational unit shall conform to all general rules and regulations of this Ordinance, including setback, lot size, road frontage and density requirements.
  - i) Current state license plate and registration.
- C. Temporary sales of farm produce and similar products, when a structure is erected, may be permitted provided they comply with the following standards and upon issuance of a zoning compliance permit:
  - 1. The sale of farm produce with permanent structures which are less than 100 square feet are permitted only in Districts AF, AG and un-platted R-1, R-2, R-3 and R-4 Districts.

2. Permanent structures, which are larger than 100 square feet for farm produce sales, may be permitted only upon approval of a special use permit by the Planning Commission in districts AF and AG.
  3. All permanent structures shall comply with the standards outlined in Subsection (D) 1, 2, 3 below.
- D. Temporary sales of farm produce and similar products, when no structures are erected, may be permitted in all districts but I and C-3 provided they comply with the following standards and upon issuance of a zoning compliance permit:
1. The location of the site shall be:
    - a. Off the road right-of-way. (*Amendment 04-002*)
    - b. Shall have clear (sight) visibility for 660 feet in both directions down the road.
    - c. If located on a corner, the entrance/exit should be off of the side road.
  2. A maximum of two signs will be permitted. The signs shall be located in advance off the site, but no further than 1/4 mile from the site. Signs shall be off the road right-of-way.
  3. The operator shall comply with all state laws regarding public health standards; sales and business tax regulations.
- E. Other temporary uses may be permitted by the Planning Commission, provided they are necessary for the provisions of essential governmental/community services. Such uses shall comply with Sections 5.0 and 5.1, and all other applicable provisions of this Ordinance.
- F. Storage of manufactured homes not set up to applicable building code standards shall be permitted for a maximum of 90 days; storage in excess of the 90-day maximum shall require Planning Commission approval. This shall not apply to legally authorized sales and service establishments or authorized junkyards.
- G. Truck boxes and semi-tractor trailers (boxes)
1. Truck and semi-truck tractor trailer boxes shall not be used for storage in any zoning district.
  2. Cargo/Shipping/Storage Containers may be used for storage in the R-1, AF, AG, C-1, C-2, C-3 and I districts with the following restrictions.
    - a. On less than 5 acres a maximum of 1 cargo container may be placed with a maximum length of 20 feet.
    - b. On 5 acres to 10 acres a maximum of 2 cargo containers may be placed with a maximum length of 40 feet in length per container
    - c. On 10 plus acres a maximum of 4 cargo containers may be placed with a maximum length of 40 feet per container.
    - d. All cargo containers shall be free from damage, severe rust, and shall not have exposed bare metal.
    - e. Shall not be stacked.

- f. Shall not display advertising, company logos, names or other markings painted on or otherwise attached to the exterior of the cargo container.
  - g. Shall be of a uniform color.
  - h. A cargo container may be allowed in Commercial or Industrial zoning districts with a lawfully established principal use. Shall be located behind a slatted chain link fence, wooden fence, or other acceptable fence having a minimum height of eight feet, or existing solid vegetation having a minimum height of eight feet.
  - i. Cargo Containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.
  - j. A solid foundation (road base material or better) is required for permanent accessory storage uses.
  - k. Cargo containers shall meet the setback requirements of the underlying zone.
  - l. Zoning Clearance must be received for the placement of a cargo unit.
- H. Structures erected for ice fishing and hunting purposes less than 100 sq. ft. in size are expressly permitted in Mecosta County and are exempt from the provisions of this Ordinance.
- I. The office and storage trailers of building contractors or P.O.D.'s (placed on demand storage units) of homeowners or occupants, used in association with the construction of a legally permitted use shall be permitted in all districts. Said office or storage trailer shall be removed within fifteen (15) days after the certificate of occupancy has been granted to the property.  
*(Amendment #11-006)*
- J. Garage Sales, including yard sales, estate sales, and moving sales, shall be considered a temporary use and be permitted in all districts except the C-1, C-2, C-3 and I-1 districts provided they meet the following standards:
  - 1. Sales can be no longer than 4 days, up to 6 times per year, with at least 3 days between sales.
  - 2. All personal property, goods, materials and signs associated with the garage sale shall not be set up more than 24 hours in advance of sale.
  - 3. All personal property, goods, materials and signs associated with the garage sale shall be removed within 24 hours of the end of the garage sale.
  - 4. The property owner must provide enough room for two cars to park on the property (out of the Right of Way).
  - 5. All items for sale must be set back at least 15 feet from all property lines *(Amendment #14-001)*

### **SECTION 3.24 AIRPORT CLEARANCE**

No use or structure shall be constructed or altered in any manner which exceeds the following airport clearance requirements:

- A. No structure shall be constructed within the approach path, 1000 feet from the end of a runway.

- B. No structure shall exceed 200 feet in height above the ground level at its site, without formal authorization from the Federal Aviation Administration of the Michigan Aeronautics Commission.
- C. The height of any structure within the vicinity of an airport shall comply with all Federal Aviation Administration and Michigan Aeronautical Commission requirements.

**SECTION 3.25 SAW MILLS (AGRICULTURAL)**

Saw Mills are facilities for the primary processing of forest products, provided that such facility is found to not seriously interfere with the primarily agricultural and rural residential purposes of the district. These operations are intended to be temporary, portable, and/or small in processing capabilities. Sawmill operations may be permitted in agricultural zoning districts as special land uses subject to the following provisions:

- A. Review Criteria. Applications for new or expanded sawmills shall be submitted to the Planning Commission for review and evaluation based upon the criteria established herein. The use must be determined by the Planning Commission to be consistent and compatible with the general character of the immediate area and otherwise meet the requirements of Special Land Use approval as outlined in Article 5 of this Ordinance.
- B. Site Plan Review. A site plan in accordance with Section 4.1, H, 2 of this Ordinance shall be prepared for review by the Planning Commission.
- C. Prohibited Locations. New and expanded milling operations shall not be permitted on any site that directly abuts any residential zoning district.
- D. Minimum Lot Size. No minimum lot size is required to seek approval for a special use permit to operate a sawmill in an agricultural zoning district. However, parcels of less than one (1) acre in size shall be reviewed so as to not allow the operation of a saw mill on sites not suitably sized to protect adjacent residential uses from nuisances created as a result of the milling operation.
- E. Maximum Area of Operation. The maximum area of land permitted for raw material (log) storage, milling operations, and processed waste (saw dust and cuttings) storage shall not exceed five (5) acres of contiguous land.
- F. Setbacks. The use of a portable chipper, stud mill, or other similar processing equipment as well as any storage or accessory buildings located on the site shall be set back at least fifty (50) feet from any road right of way or lot line. (*amendment 12-003*)
- G. Site Access and Parking. Vehicle access to the site shall be located off of a public road suitable to accommodate both vehicular and truck traffic. Parking and loading areas shall be provided and shall be constructed of gravel or stone surface. One parking stall shall be required for each employee or worker on site. Sufficient turn around and loading areas for larger vehicles shall also be provided.
- H. Employees. The milling of timber products on site is intended for the general use and benefit of the property owner. Two (2) employees unrelated to the property owner may be employed on site.
- I. Hours of Operation. The saw mill shall not operate outside of the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday. (*amendment 12-003*)

- J. Transportation. The loading and shipment of three (3) semi-tractor trailer (with a maximum of eleven (11) axles) or its equivalent shall be permitted per week of operation. In addition, the delivery of no more than four (4) shipment(s) of raw material (logs) in any given week shall be permitted. It is the intent of this requirement to limit nuisances created (i.e...noise, traffic, fumes, etc.) by this activity from impacting adjacent residential and agricultural land uses. *(amendment 12-003)*
- K. Production. No more than an average of 6,000 board feet of processed lumber shall be produced in any one day. Average is calculated as follows: Total board feet produced in a month divided by number of days the sawmill is in operation during the same month. *(amendment 12-003)*
- L. Appearance. All raw and processed material shall be stored in a neat and orderly manner. In addition, the property shall be kept free of junk, debris, garbage, and tall weeds and grasses. The outdoor storage of inoperable equipment, inoperable or unlicensed vehicles, and equipment or vehicle parts shall be strictly prohibited.
- M. Waste Disposal. All waste from sawmill operations shall be disposed of in a manner which meets all Federal, State, and Local laws. *(amendment 12-003)*
- N. Temporary Sawmills. Sawmills which are in operation for less than 60 days per year and using a portable table, are permitted in all zoning districts. No permits are required for such use. *(amendment 12-003)*

### **SECTION 3.26 ZONING PERMITS ISSUED PRIOR TO EFFECTIVE DATE**

Any building or structure for which a zoning permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning permit issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and applications on which said zoning permit was granted.

A building which is lawfully under construction at the time of adoption of this Ordinance shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

### **SECTION 3.27 RESTORATION OF UNSAFE BUILDINGS.**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the County Zoning Administrator or required compliance with his or her lawful order. Furthermore, upon the determination of the County Zoning Administrator and official notification thereof to the property owner, the Zoning Administrator may order the demolition and removal of any designated unsafe building. In addition, the cost of said removal shall be borne by the property owner. If the property owners fails to pay for the cost of the removal within 60 days of the date the building was removed, the County may either place a lien on the property or place the cost of said removal on the next available tax bill as a special assessment against the property.

### **SECTION 3.28 MOVING OF BUILDINGS**

Any building or structure that has been wholly or partially erected on any premises located within the County shall not be moved to and be placed upon any other premises in the County until a zoning permit for such removal has been secured according to the requirements of this Ordinance.

Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.

Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Michigan Building Code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the County, may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a zoning permit shall be issued for the moving of such a building or structure.

### **SECTION 3.29 EXCEPTIONS TO HEIGHT LIMITATIONS**

A roof structure for the housing of elevators, stairways, tanks, ventilation fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, individual domestic radio and television aerials, wireless communication facilities, and wireless masts, electrical transmission and communication poles and towers, theater screens, steeples, flagpoles, chimneys, smokestacks, water tanks, grain elevators, silos, gas containers, industrial installation requiring a vertical production procedure such as flour mills, steel mills, and refineries, or similar structures may be erected above the height limits herein prescribed, but no such structures shall be allowed for the purpose of providing additional floor space for residential, business, or industrial use.

No roof structure may be erected to more than twice the applicable height limits of the district in which it is located, and no such structure shall have a total area greater than twenty-five (25) percent of the roof area of the building, and no such structure shall be used for any residential purpose or commercial purpose, other than a use incidental to the main use of the building.

### **SECTION 3.30 EXCEPTIONS TO AREA AND WIDTH REQUIREMENTS**

#### **A. Recorded Lots.**

Lots established by a legally recorded plat or deed prior to the adoption of this Ordinance which have less than the minimum area or width requirements established by this Section, may nevertheless be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this Ordinance and which met the requirements of said Ordinance, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which such lot is located.

#### **B. Lack of Public Utilities.**

In areas unserved by public or other approved community water and/or sewage facilities, the minimum lot areas required by this Ordinance shall be increased to include any additional area deemed necessary by the appropriate Health Department to insure safe water supply and/or adequate sewage disposal.

### **SECTION 3.31 NUMBER OF BUILDINGS ON A LOT**

Every building hereinafter erected or structurally altered shall be located on a lot herein defined and there shall be no more than one (1) principal use building on one (1) lot unless otherwise

provided in this Ordinance. Exceptions to the aforementioned requirement include multiple-family dwellings in a One and Two Family Residential District (R-3), Multiple Family Residential District (R-4), Manufactured Housing District (MHD) or Planned Unit Development (PUD).

No lot may contain more than one (1) principal building, structure, or use excepting groups of multiple-family dwellings, site condominiums as approved under the provisions of this Ordinance, or retail business buildings or other groups of buildings the Building Official deems to be a principle use collectively.

### **SECTION 3.32 LOCATION OF DWELLINGS**

No residential structure in an LR, R-2 or R-3 zoning district shall be erected upon the rear of a lot. Structures in residential (LR, R-2 or R-3) districts shall be setback no further than the average front setback of fifty (50) percent of the structures upon the same block, as determined by the Zoning Administrator or more than half the depth of the parcel which ever is less. Appeals of such determination shall be resolved by the Zoning Board of Appeals. No residential structure shall be erected upon a lot with another dwelling unless otherwise provided by this Ordinance.

### **SECTION 3.33 ILLEGAL DWELLINGS**

The use of any portion of the basement of a partially completed building, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. No dwelling unit shall be erected in an industrial district. However, the sleeping quarters of a watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

### **SECTION 3.34 OTHER PROJECTIONS INTO YARDS**

#### **A. Cornice, Sill, Chimney, or Fireplace.**

A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than five (5) feet.

#### **B. Fire Escape.**

A fire escape may extend or project into any front, side, or rear yard not more than four (4) feet.

### **SECTION 3.35 ACCESS THROUGH YARDS**

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Further any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

### **SECTION 3.36 VOTING PLACES**

This Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal, state, federal, or other public election.



### **SECTION 3.37 UNSAFE AND UNGUARDED STRUCTURES**

- A. All buildings or structures that are or hereafter shall become unsafe, unsanitary, or deficient in adequate exits, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare or which by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures.
- B. A vacant building or structure unguarded or open at a door or window, shall be deemed a fire hazard and unsafe within the meaning of this Ordinance.

### **SECTION 3.38 ESSENTIAL PUBLIC SERVICES**

Essential public services shall be permitted in any zoning district as authorized and regulated by law and other provisions of this Ordinance, it being the intention hereof to exempt such essential services from the application of this Ordinance.

The Zoning Board of Appeals may permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.

### **SECTION 3.39 DRIVE-IN AND DRIVE-THROUGH ESTABLISHMENTS**

#### **A. Screening**

When a drive-in or drive-through establishment adjoins property located in any residential zoning district, a solid masonry wall, (ornamental on both sides), six (6) feet in height, or a greenbelt, or a buffer strip shall be erected and maintained along the interior property line, or if separated from the residential zoning district by an alley, then along the alley lot line. Such wall, greenbelt, or buffer strip shall be protected from possible damage from vehicles using adjoining parking areas and drives by the use of curbs, wheel stops, or bumper guards, provided that no such device may be directly attached to the wall.

#### **B. Lighting**

All exterior lighting, including illuminated signs, message boards, or ordering stations shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all other requirements of this Ordinance.

#### **C. Setbacks**

A drive-in or drive-through establishment, including any message boards or ordering stations shall be located not less than fifteen (15) feet from any side or rear lot line.

#### **D. Driveways and Curbs**

- 1. All driveways providing ingress to or egress from a drive-in or drive-through establishment shall comply with the standards of this Ordinance and shall not be more than thirty (30) feet wide at the property line. Not more than one (1) curb opening shall

be permitted along any street. No driveway or curb opening shall be located nearer than twenty (20) feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than thirty (30) feet, as measured along the property line, to any other driveway.

2. A raised concrete curb, six (6) inches in height, shall be erected along all street lot lines, except for driveway openings.

E. Paved Areas

The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed bituminous material, except approved landscaped areas.

**SECTION 3.40 BED AND BREAKFAST ESTABLISHMENTS**

This Ordinance is established to enable single-family dwelling units to conduct a Bed and Breakfast Operation to promote tourism in the Mecosta County area. Where allowed, either as a permitted or conditional use, the Planning Commission shall in addition to any standards set forth elsewhere in this Ordinance also review the application and require compliance with the following standards:

A. Application

An initial application to establish or re-establish a bed and breakfast operation shall be made to the County Building Official for its review and action. The application shall, at a minimum include the following information:

1. A floor plan of the single-family dwelling showing the layout of the building. The location of the guest room(s), bathroom(s), and such other information as required herein to facilitate proper review of the application.
2. A site plan of the lot showing the existing structure and any accessory structures on the site, the location of driveways and vehicular parking areas.
3. The applicant shall submit proof that they have an equitable interest in the property such as a deed, land contract, option to purchase, or contract to operate said facility.

B. Plan Review

The Zoning Administrator shall review the application and the floor and site plan for compliance with the County Zoning Ordinance standards and conditions.

C. Dwelling Unit and Operator Requirements

Bed and Breakfast facilities shall be confined to the single-family dwelling unit which is the principal dwelling unit on the property. The dwelling unit in which the bed and breakfast facility is to be located, shall be the principal residence of the operator, and said operator shall live within said principal residence when bed and breakfast operations are active.

D. Minimum Lot Size

In the R-2, R-3, and LR District, minimum lot size shall be 20,000 square foot with a minimal width of 100 ft. In the R-1, AF and AG Districts, minimum lot size shall be one acre, excluding right-of-way with a minimum width of 200 feet. In the HI District, a minimum lot size of two acres with a minimum width of 300 feet shall be required.

E. Total Area Used for Bed and Breakfast

Not more than thirty (30) percent of the total existing floor area of the dwelling structure at the time of initial application, shall be devoted to bed and breakfast sleeping rooms. The method of determining floor area shall be based on the definition of “usable floor area” as defined in this Ordinance.

F. Exits

The Bed and Breakfast facility shall contain at least two (2) usable exits to the outdoors.

G. Minimum Guest Room Size

Rooms utilized for guest sleeping shall have a minimum floor area of one-hundred (100) square feet for two (2) occupants, with an additional thirty (30) square feet provided for each additional occupant up to a maximum of four (4) occupants per room.

H. Location on Lot

Bed and Breakfast operations shall meet the required setback regulations for the Zoning District in which they are located.

I. Meals

Meals shall be served only to residents of the dwelling and overnight guest of the bed and breakfast operation.

J. Cooking Facilities

No separate cooking facilities shall be provided for bed and breakfast guests, nor shall existing cooking facilities be made available for use by the bed and breakfast guests.

K. Sanitary Facilities

Adequate lavatories, water closets, and bathing facilities shall be provided to all guests in a Bed and Breakfast facility.

L. Safety Devices

Each sleeping room shall have a separate smoke alarm and each room shall be equipped with at least one (1) fire extinguisher.

M. Appearance

The structure must maintain the appearance of a single family residence.

N. Parking

Two parking spaces plus one additional space per room to be rented must be provided. All parking must be provided for on premises. Tandem parking is allowed; however, not more than two vehicles per space shall be allowed.

O. Signs

One (1) non-illuminated sign, not to exceed four (4) square feet in area, shall be permitted to identify by name the Bed and Breakfast. Such sign may be attached flat to the surface of the principal dwelling or freestanding but shall not exceed the total height of six (6) feet. In addition, if a Bed and Breakfast League or comparable organization is established, then a uniform symbol or logo adopted by said organization and not exceeding two (2) square feet may be included.

P. Guest Register

Each operator shall keep a list of the names of all persons staying at the bed and breakfast operation. Such list shall be available for inspection by County officials at any time.

Q. Maximum Length of Stay

The maximum stay for any occupant of a bed and breakfast operation shall be twenty-one (21) days within any thirty (30) day period.

R. Annual Inspection and Renewal

All Bed and Breakfast operations shall be subject to annual inspection by the Building Inspector to ensure that the use continues to meet or exceed the standards established herein and/or otherwise by the Planning Commission. Failure to comply with the standards shall result in the revocation of the ability to use said property for the purpose of a Bed and Breakfast operation.

S. Public Nuisance Violations

Bed and Breakfast Operations shall not be permitted whenever the operation endangers, or offends, or interferes with the safety or rights of adjacent property owners or the public at large so as to constitute a nuisance.

T. Authority for Denial

The floor plan for the Bed and Breakfast Operation shall be reviewed by the Building Inspector, Zoning Administrator and Planning Commission for compliance with all county, state and federal codes and ordinances. Upon finding that the applicant cannot meet a particular requirements it shall have the authority to deny the applicant a license. The denial may be appealed to the Zoning Board of Appeals, who may then weigh the facts of the case and make a final decision.

U. Licensing Fees

It shall be unlawful for any person to operate a Bed and Breakfast operation, as defined and as permitted in this Ordinance without first having obtained a special use permit from the Planning Commission. At the discretion of the County Board of Commissioners, a yearly license may be established for Bed and Breakfast Operations. The fee for issuance of a license required under this Ordinance shall be collected by the County Building/Zoning Department. The amount of such fee shall be established by the County Board of Commissioners and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance. The license shall be issued in January of each year.

These shall not apply to hotels, motels, motor lodges, boarding houses, or rooming houses doing business within the County on the date of adoption of this Ordinance.

## **SECTION 3.41 CONDOMINIUM DEVELOPMENT STANDARDS**

### **A. Purpose and Scope**

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant common element, shall be considered to constitute a building site which is the functional equivalent of a “lot” for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project’s location, any land use permitted by the Mecosta County Zoning Ordinance may be permitted in a site condominium project.

2. The purpose of this Section is to ensure that the plans for developments within Mecosta County proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, other applicable county ordinances and state and federal regulations.

### **B. Site Condominium Review and Approval Procedures (Step I Review)**

Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant’s intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Building Inspector, who shall distribute it to all Planning Commission members.
  - a. A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
  - b. A statement regarding the provision of sewer service and water supply.
2. During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
  - a. General requirements of this Section and other applicable provisions of this Ordinance and the Subdivision Regulation Ordinance.
  - b. Planned or anticipated sites of parks and recreation areas and other public uses.

- c. Utility system capabilities.
  - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
  - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.
  - f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
3. This review is intended for information purposes only and does not constitute binding commitments on the part of the County. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
4. Following preliminary review, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
- a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.
  - b. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

**C. Site Condominium Review and Approval Procedures (Step II Review)**

1. An application for preliminary review of a site condominium subdivision project shall be made to the Zoning Administrator along with the appropriate fees as required by County Board of Commissioners resolution. The application shall, at a minimum, contain the following information:
- a. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project as proposed is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to County approvals of individual uses on individual building sites.
  - b. The applicant's name, address, and phone number.
  - c. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.
  - d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
  - e. The legal description, address and tax parcel number of the property.
  - f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
  - g. Gross and net size of the parcel in acres.
  - h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.

- i. A copy of the current and proposed deed restrictions or covenants for the site condominium subdivision.
  - j. A copy of any preliminary agreements which may be required before final plan approval is granted.
  - k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.
2. The applicant shall provide at least twelve (12) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Zoning Administrator. The plans at the time of their submittal shall contain the information required for preliminary site condominium plan as required by this Ordinance.
3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
4. Upon receipt of the preliminary site condominium project plans, the Zoning Administrator shall forward one copy to each member of the Planning Commission, and the County Engineer or Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.
5. The Zoning Administrator shall notify by mail, all the members of the Planning Commission that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given at least fifteen (15) days prior to the hearing by one (1) publication in a newspaper of general circulation in the County and by notice by mail to each public utility company within the geographical sections or divisions of the County affected by the proposed development. Notices of said hearing shall also be sent, not less than fifteen (15) days prior to the date fixed therefore, by mail to the applicant and to all owners within three hundred (300) feet of the subject property. The Zoning Administrator shall also give such notice of the meeting as required by the open Meetings Act.

In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval.

If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:

- a. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
- b. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.

**D. Setbacks and Boundaries.**

The setback requirements for condominium buildings shall be determined as follows:

1. Single Family Detached Units.

- a. The front yard setback shall be one-half (½) the approved or recorded street right of way, plus the current setback for the existing zoning district.
    - b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development shall meet the minimum required side yard setback within the zoning district.
    - c. The rear yard setback between the rear of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development shall meet the minimum rear yard setback of the zoning district.
  2. Multiple Family Units shall meet the standards of the Multiple Family Residential District (R-3).
  3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the bylaws and recorded as part of the master deed.
- E. Common Elements.
- After construction of a condominium unit, the undeveloped area of a unit shall become a common element.
- F. Encroachment.
- A condominium project shall not be constructed in a manner that intentionally creates an encroachment.
- G. Subdivision of Unit Sites.
- Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the bylaws and recorded as part of the master deed.
- H. Conformance with Subdivision Regulations.
- All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this Ordinance
- I. Water and Waste Water.
- The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and waste water disposal.
- J. Expansion and Conversion.
- Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.
- K. Master Deed.



The project developer shall furnish the County with one (1) copy of the proposed consolidated master deed, one (1) copy of the bylaws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance and to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.

**L. As-Built Plans and Occupancy.**

Submission of an as-built plan of a condominium unit is required prior to occupancy. The Zoning Administrator may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the County Treasurer, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the County. The amount and form of the escrow shall be determined by the County Board of Commissioners. Fees for these reviews shall be established from time to time, by the County Board of Commissioners.

**M. Final By-Laws, Consolidated Master Deed, and Site Plan.**

Upon approval of the development, the applicant shall furnish the County a copy of the by-laws and consolidated master deed. The development plan shall be provided on a mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.

**N. Compliance with other Statutes and Ordinances.**

All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.

**SECTION 3.42 PLANNED UNIT DEVELOPMENT (PUD)**

**A. Intent**

The Planned Unit Development (PUD) is an optional, but highly encouraged, development provision incorporating “overlay” zoning standards which apply to the respective “underlying” district. For properties approved for the PUD designation, these PUD standards replace the lot area, lot width, set back requirements, and other related regulations of each respective zoning district.

The PUD provisions are intended to permit, through the special use permit procedure, developments designed to encourage the preservation of open space, encourage creativity and flexibility in the use and design of structures and land in Mecosta County. The Planned Unit Development (PUD) is intended to accomplish the following:

1. Result in a more efficient pattern of development, with shorter and more narrow streets and utility networks.
2. Preserve existing natural assets, such as stands of trees, flood plains, wetlands, unique topography, lake frontage, ponds, scenic vistas and other open spaces.
3. Accomplish a more desirable residential environment than would be possible through the strict application of the minimum requirements of the County Zoning Ordinance.
4. Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all units.

5. Provide for supportive mix of land uses and amenities such as day care, office, neighborhood retail, and similar uses, which in the opinion of the Planning Commission, are in conformance with the goals and objectives of the County Master Plan and will enhance the residential stability and economic base of the County.

In order to encourage PUD developments on specific properties, the PUD provision relaxes or waives one or more of the requirements of the underlying zoning district. The PUD process also permits a developer to mix compatible uses or residential types on a single property, cluster structures to reduce development costs, and enhance marketability through the preservation of natural features and unique design.

**B. General Requirements**

1. **Minimum Project Area:** A minimum gross project area of ten (10) acres is required for a PUD. However, In an effort to advance the goal of good land use planning, the County may allow or designate a parcel of any size for the PUD process, if it advances development objectives consistent with the goals of the Mecosta County Master Plan.
2. **Access:** The development must have direct access to a publicly maintained road or state highway.
3. **Principal Use:** The principal permitted use shall be residential development, consistent with the underlying zoning district of the proposed PUD.
4. **Permitted Districts:** A PUD may be proposed for any residential zoning district including the LR Lake Residential and AF Agricultural Forestry districts. Planned Unit Development projects are not permitted in the AG Prime Agricultural District.

**C. Minimum Development Requirements**

1. Each principal building in the proposed PUD must be connected to water and sewer facilities that are approved by the District 10 Health Department. Where available, public utilities shall be extended if located within 1,000 feet of the proposed development.
2. Each site shall be provided with adequate storm drainage. Open drainage courses and storm retention ponds shall be reviewed and permitted by the Mecosta County Drain Commissioner.
3. Underground utilities, including telephone and electrical systems, are required within the limits of all PUD projects. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the County Planning Commission and County Board of Commissioners find that such exemption will not violate the intent or the character of the proposed PUD.
4. For each one (1) foot of height over the maximum height allowed by the underlying zoning district, the distance between nonresidential buildings (e.g. churches or offices) and the side and rear property lines of the development shall be increased by one (1) foot. The same shall apply to the distance between nonresidential buildings.
5. Each structure in the PUD which abuts a perimeter property line of the PUD parcel shall meet a fifty (50) foot setback requirement.

**D. Common Open Space Requirements**

1. Common open space does not include proposed street rights-of-way, open parking areas, or commercial areas. Common open space may contain accessory structures, outdoor recreational areas (including ball fields and community pools & buildings), paved bicycle and walking paths, agricultural uses, wetlands, improvements necessary or desirable for religious, educational, non-commercial, recreational or cultural uses.
2. The area of common open space within a PUD project may not be less than thirty (30) percent of the total land area of the project. However, when a water or wetland feature exists on the subject site, water or wetlands may not account for more than thirty (30) percent of the required open space. Furthermore, not more than twenty-five (25) percent of the required open space may be devoted to outdoor recreation areas or community buildings (pools, tennis courts, meeting halls, etc.)
3. Required open space shall be accessible to all residents within a PUD development and be conveniently located in relation to all dwelling units. Open space amenities shall be identified (by signage or markings) for use by all residents, shall be connected through the use of trails and signage, and shall be delineated from private areas through design enhancements.
4. As a general guide, all housing sites should be designed so as to abut, have convenient access to, or have a view-shed of common open space. Passive recreation areas should be massed so as to provide for wildlife, flora, and fauna experiences. Passive recreation areas which are primarily limited to buffer strips at the perimeter of the developments are not considered as meeting the intent of this provision. However, walking, jogging, and bicycle trails may be designed into the development as supplements to the larger recreation areas. All open space provisions will be negotiated by the County as part of the PUD process.
5. All public areas and facilities which are to be dedicated to a public agency shall be so dedicated prior to approval of a final development plan, unless a binding agreement is provided in lieu of that dedication.
6. All proposed open space shall be permanently maintained by the developer or property owners association unless otherwise dedicated to the County for perpetual care. Legal instruments setting forth the manner of permanent maintenance of common open space and facilities shall be submitted to the County Attorney for review before the County Board of Commissioners approves the final development plan. Such instruments may include dedication of permanent conservation easements, public road right-of-way, or dedication to homeowner's associations.
7. Where a homeowners association is to be used to maintain common open spaces and facilities, the developer shall file a declaration of covenants and restrictions that will govern the homeowner's association. The provisions shall include, but shall not be limited to, the following:
  - a. The homeowners association shall be established before any dwellings in the PUD are sold;
  - b. Membership in the homeowners association shall be mandatory for each dwelling unit buyer and for any successive buyer and shall be so specified in the covenants;
  - c. Restrictions shall be permanent;
  - d. The homeowners association shall be made responsible for liability;

- e. Dwelling unit owners shall pay their prorata share of the costs and this requirement shall be specified in the covenants.

**E. Density Determination and Density Bonus**

In agricultural and residentially zoned areas, the base density of any proposed development will be determined by the applicant's build-out design showing the proposed development with the minimum lot size of underlying zoning district in a conventional subdivision plan. Once the base density is determined, a series of bonus densities may be applied to the project. The first is a ten (10) percent density bonus for utilizing the PUD process. This recognizes that the PUD process is in the best interest of residents of the County. The second is up to an additional ten (10) percent increase in density, provided that the applicant clearly shows how the proposed PUD design is unique, preserves open space beyond the minimum requirement of thirty (30) percent, or provides a public benefit (such as paving a public road or providing a community recreation facility). However, in no case may an individual lot or building site contain less than twenty-five (25) percent of the area or width of the underlying zone requirements.

<b>Bonus Criteria for Residential PUD Projects</b>	<b>Amount of Density Bonus</b>
Bonus for utilizing the PUD process	10%
Bonus for additional open space or public benefit	10%

**F. Permitted Commercial Uses (R-4 and LR Districts Only)**

Non-residential land uses may be integrated into the proposed PUD through approval of the special use permit. Commercial uses may be limited to the development of not more than ten (10) percent of the total project area. Examples of commercial uses may include retail stores, personal service establishments, bed and breakfast establishments, business or professional offices, golf course accessory uses such as a restaurant or retail components, and day care facilities. Golf courses shall not be considered a commercial use. However, all proposed commercial uses must meet the intent of the PUD Chapter and be subject to reasonable terms established as part of the special use permit process.

When PUD's include commercial development, commercial structures shall be planned as groups having common parking area and common ingress and egress points in order to reduce the number of curb cuts. Suitable planting screens or fences shall be provided on the perimeter of the commercial areas whenever they abut residential components of the PUD. The site plan for the development shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Planning Commission and County Board of Commissioners.

**G. Road Construction Standards**

The private road construction requirements, in Section 3.21 of this Ordinance shall apply, except that the width of any proposed road may be reduced, if approved by the Planning Commission, as part of the final development plan, in order to minimize stormwater runoff, reduce construction costs, reduce vehicle speeds and maximize open space. Such reductions

shall be based upon specific finding by the Planning Commission. Public road shall comply with the Mecosta County Road Commission construction standards.

**H. Preliminary Conference**

Prior to preparing a formal application, the applicant is required to have two (2) preliminary conferences; one with the Zoning Administrator and the other with the County Planning Commission. The purpose of the conferences is to discuss the proposed development and to review the procedures, standards, and requirements of the County. The applicant is encouraged to present concept plans, site data and other information that will assist in explaining the proposed development. Statements made in the conferences shall not be legally binding to the applicant or County.

**I. Application Process**

1. An application for a PUD Special Use Permit along with not less than fifteen (15) sets of the preliminary development plan and an application fee (as set by resolution of the County Board of Commissioners), shall be submitted to the Zoning Administrator. The application shall, at a minimum, contain the following information:
  - a. The applicant's name, address and phone number;
  - b. Proof that the applicant is the owner of the property or has a legal or financial interest in the property (such as a purchase agreement);
  - c. The name and address of all persons, firms or corporations having a legal or equitable interest in the property;
  - d. The address of the property;
  - e. Legal description and parcel number of the property;
  - f. Project descriptions;
  - g. Size of the property in acres and square feet; and
  - h. Signature of the applicant and owner of the property (if different).
2. Upon receipt of the completed application, application fee and preliminary development plan, the Zoning Administrator shall forward a copy of the application and plan to the Planning Commission, Drain Commissioner, Road Commission, Conservation District, and others deemed appropriate by the Planning Commission to allow for proper review of the proposed PUD.

**J. Preliminary Development Plan**

1. The Preliminary Development Plan shall contain the following:
  - a. Date, north arrow, and scale which shall not be smaller than 1" = 100';
  - b. Location sketch of the site in relation to the surrounding area. This sketch shall label land uses on adjacent parcels;
  - c. Legal description of the property;
  - d. Parcel size in acres and square feet;

- e. All lot or property lines, with dimensions;
  - f. Location of all existing and proposed structures on the site;
  - g. Location and dimensions of all existing and proposed streets, driveways, alleys, parking areas, including total number of spaces, parking calculations, and typical dimensions;
  - h. Size, location, and proposed use of all areas devoted to open space;
  - i. General landscape concept showing tree masses to be preserved, added, buffer areas, screening, and similar features;
  - j. All wetland areas, flood plain boundaries, and bodies of water;
  - k. Existing topographical contours at a minimum of two (2) foot intervals; and
  - l. General layout of all proposed utilities including: water, sewer, telephone, gas, and electric services.
2. A written statement shall also be provided by the application describing each of the following:
- a. General character of the PUD;
  - b. Gross residential densities and percent of proposed PUD area to be covered by buildings and parking area;
  - c. Acres allocated to each use;
  - d. Method and responsibility for maintenance of open areas, private streets, recreational amenities and parking areas; and
  - e. Environmentally sensitive areas.
3. The applicant shall prepare a parallel design plan for the project consistent with the lot width, setback, area requirements and design criteria of the applicable zoning district of the Mecosta County Zoning Ordinance in which the property is located.
- a. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality (MDEQ).
  - b. The Planning Commission shall review the design to determine the number of lots that could feasibly be constructed following the parallel design. This number shall set the maximum density number of dwelling units for the site allowable under the PUD provisions of this Ordinance.
  - c. Riparian lots may be reduced in size from the dimensions afforded by this Ordinance but shall not be reduced to a width of less than seventy-five (75) feet, unless granted a variance by the Board of Zoning Appeals.
4. After reviewing the preliminary development plan, the Planning Commission shall transmit its recommendations to the applicant, along with any suggested changes or modifications.

**K. Public Hearing by the Planning Commission**

Within forty-five(45) days after the submission of the preliminary development plan, the Planning Commission shall hold a public hearing on the contents of the plan. The hearing shall comply with the procedures and requirements applicable to a Special Use Permit requests under this Ordinance.

**L. Impact Assessment**

1. The Planning Commission may require the applicant to prepare and submit an impact assessment when it is determined that the proposed development has the potential to pose a threat or adverse affect to public services, adjacent property or the natural environment. When required, preparation of the impact assessment shall be the responsibility of the applicant. The applicant shall use qualified professional personnel to complete the impact assessment. The impact assessment shall describe in detail the effect and impact that the proposed PUD will have, or may have, upon or with respect to any of the following matters:
  - a. Streams, rivers, wetlands, and the quality of surface and ground waters.
  - b. Public utilities
  - c. Displacement of people and other land uses by the proposed use
  - d. Impact to adjacent properties and the character of the area
  - e. Traffic
  - f. Plant and wildlife
2. The impact assessment shall, if requested by the Planning Commission, include statements and comments from the following public agencies or officials concerning any aspects of the proposed PUD within their respective responsibilities and jurisdictions:
  - a. County Health Department
  - b. County Road Commission
  - c. County Drain Commissioner
  - d. Michigan Department of Natural Resources and Environmental Quality
  - e. Local School District
  - f. County Sheriff's Department
  - g. Local Fire Department
  - h. Other agencies as determined appropriate by the Planning Commission
3. The Planning Commission shall consider the criteria listed below in their evaluation of the impact assessment. Failure to comply with any of the criteria shall be sufficient justification to deny approval.
  - a. Will be harmonious with and in accordance with the general objectives of the Master Plan.

- b. Will be designed, constructed, operated, and maintained in harmony with the existing or future neighboring uses.
- c. Will represent a substantial improvement to the property in the vicinity and the community as a whole.
- d. Will be served adequately by essential public services and facilities, such as highways, streets, drainage structures, police and fire protection, and refuse disposal, or the applicant will provide adequately for such services.
- e. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors.

**M. Final Development Plan**

1. After receiving the recommendations of the Planning Commission on the preliminary development plan, the applicant shall submit not less than fifteen (15) sets of a final development plan to the County Building Official. The Building Official shall forward a set of the plans to the Planning Commission, the Drain Commissioner, Road Commission, Conservation District and others deemed appropriate by the Planning Commission to allow for proper review of the proposed PUD.
2. The final development plan shall include all of the information required on the preliminary development plan and all additional information requested by the Planning Commission. The final plan shall incorporate all recommendations of the Planning Commission pursuant to the Commission's review of the preliminary plan, or shall indicate how the final plan fails to incorporate the Commission's recommendations. The plan shall be certified by a licensed architect, registered land surveyor or professional engineer. In addition, the final plan shall include the following:
  - a. Architectural renderings or specific statements as to the type and style of construction and materials to be used in proposed buildings along with the height and area of each building.
  - b. Projected time for completion of the entire project
  - c. Proposed phasing, if any, and the projected time for completion of each phase.
  - d. Landscaping Plans
  - e. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon.
  - f. Engineering plans showing, as necessary, water, waste disposal, drainage, exterior and street lighting, electricity, telephone and natural gas installations, and the nature and extent of earthwork required for site preparation and development
  - g. Any other information required by the Planning Commission to assist in the evaluation of the proposed PUD.

**N. Review Standards**



Before making its decision on the final development plan, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing(s) meet the following standards:

1. The proposed PUD can be initiated within eighteen (18) months of the date of approval.
2. Each individual unit phase of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objectives will be attained; the uses in the proposed PUD will not be detrimental to present and potential adjacent uses; and will have a beneficial impact which could not be achieved under standard district regulations.
3. The streets and thoroughfares proposed are suitable to carry anticipated traffic and the increased densities will not generate traffic in such amounts so as to exceed the design capacities of area roadways.
4. Any commercial component of the PUD will be beneficial to the general area and to the population of the proposed development.
5. Any deviation(s) from the regulations of the underlying zoning district can be justified by meeting the purpose of the PUD provisions of the County Zoning Ordinance.
6. The area surrounding the proposed PUD can be planned and zoned in coordination and substantial compatibility.
7. The proposed PUD meets the development goals and objectives of the County Master Plan.
8. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

**O. Final Approval**

Within sixty (60) days of receiving the final development plan, the Planning Commission shall approve, approve subject to specified conditions, or denial of the PUD Special Use Permit.

1. The Planning Commission shall review the final development plan and in making its decision, the Commission shall determine:
  - a. Whether the final development plan complies with the standards, conditions, and requirements of this Chapter;
  - b. Whether the PUD promotes the intent and purposes of this Chapter;
  - c. Whether the PUD will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project; and
  - d. Whether the PUD will be consistent with the public health, safety, and welfare needs of the County.

**P. Application Fee**

The County Board shall, by resolution, establish a fee schedule for PUD Special Use Permit applications under this Ordinance. The fee schedule shall include but not be limited to the cost of the required reviews of the County Attorney, County Zoning Administrator, County Planning or Engineering consultants, and to cover the cost of organizing, publicizing, and administering the PUD application, public hearing, and approval process.

**Q. Performance Guarantee**

Performance guarantees may be required by the Planning Commission in accordance with Article 5 of this Ordinance.

**R. Construction Compliance**

Any permit issues for construction pursuant to the PUD Special Use Permit shall be valid only so long as there is compliance with the final development plan accepted by the County Planning Commission.

**S. Amendments and Revisions**

1. A developer may request a change in an approved final development plan. Except for those changes determined to be minor, as provided below, changes to an approved final development plan or to any conditions imposed on a PUD Special Use Permit shall be reviewed and approved, approved with conditions, or denied by the Planning Commission pursuant to the procedures provided by this Article for an original request.
2. Minor changes to a final development plan may be approved by the Planning Commission. "Minor Changes" are limited to the following:
  - a. Change in residential floor area of not more than five (5) percent provided that there is no increase in the number of dwelling units.
  - b. The relocation of building footprints by not more than five (5) feet, unless a specific setback or separation distance was imposed as a condition of the PUD approval
  - c. An increase in area of portions of the site designated as "not to be disturbed."
  - d. The substitution of plant materials by similar types of landscaping on a 1-to-1 ratio, as determined by the Zoning Administrator.
  - e. Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the PUD which are not significant in relation to the PUD and would not have any significant adverse effect on adjacent or nearby lands or the public health, safety or welfare.

**T. Expiration and Extension of Approval Period**

The approval of a final development plan for a planned unit development shall be for a period not-to-exceed two (2) years to allow for preparation and recording of the required subdivision plat and the development of the project. If no construction has begun within two (2) years after approval is granted, the approved final development plan shall be void. The Planning Commission may require that a new final development plan be filed and reviewed in accordance with the requirements for the original application. An extension of the time limit may be approved if the Planning Commission finds that such extension or modification is not in conflict with the public interest.

No zoning amendment passed during the time period granted for the approval of the final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

U. Appeals

Any order, requirement, decision or determination made in regard to the review and approval of a planned unit development pursuant to this Chapter shall not be subject to review for appellate action to the Zoning Board of Appeals. Appeals from the requirements of this Chapter and the review and approval of the Planning Commission shall be made to the Mecosta County Circuit Court.

**SECTION 3.43 SIGN REGULATIONS** (*Amendment 16-003*)

A. Purpose and Intent

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection.

In addition, it is the intent of this Ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the County.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited and that signs in residential districts be limited to those directly related to activities on the premises.

B. Definitions

The following words and phrases shall have the meanings set forth in this Section when they are used in this Section:

**Accessory Sign:** A sign which pertains to the principal use of the premises upon which such sign is located.

**Appendage Sign:** A sign that is intended to draw attention to one or more of various services, items for sale, contests, etc., and is attached as an appendage to an accessory sign, sign support or any part of a sign structure. Appendage signs are prohibited throughout the County.

**Banner Sign:** A sign on paper, cloth, fabric or other combustible material of any kind, either with or without frames, used for a temporary purpose.

**Billboard:** A large (over 200 square feet) permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or non-commercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**Building Frontage:** The length of the portion of a building facing a street abutting to the premises on which a business is located.

**Bulletin Board:** A sign with temporary or replaceable letters or characters, used to announce dates of functions or activities.

**Canopy:** A suspended covering, often movable, placed above a door, window, or other entranceway. Canopies can be constructed of cloth, metal, wood, or other materials.

**Electronic Message Board:** A sign that is designed so that its characters, letters, illustrations, or other content can be changed, altered, or rearranged without physically altering the permanent physical face or surface of a sign. The message of an electronic message board can only be varied by electrical or electronic means and not manually.

**Flag:** A banner of distinctive design used as a symbol.

**Flashing Sign:** A sign that contains sequential flashing light source or reflects light intermittently from either an artificial source or from the sun and is used solely to attract attention in a non-informative way.

**Freestanding Sign:** A sign supported by one or more uprights, poles, pylons or braces placed in or upon the ground and not attached to any building or other structure.

**Grade:** The average elevation of an area within a radius (of the sign base) equal to two times the height of the sign.

**Illuminated Sign:** A sign which has characters, letters, figures, or designs which are illuminated either internally or with external shielded lights.

**Interior Sign:** A sign which is visible from any public street, sidewalk, alley, park or public property and located within a building.

**Marquee Sign:** A sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building.

**Maximum Sign Height:** Shall be measured from grade or sidewalk to the highest edge of the sign surface or its projecting structure.

**Message Board:** A sign with removable characters, letters, or other content that can be changed, altered, or rearranged without physically altering the permanent physical face or surface of a sign. The message of a message board can only be varied manually and not by electrical, electronic, or other means.

**Moving Sign:** A sign that has motion either constantly or at intervals or that gives the impression of movement.

**Off Premises Sign:** A sign providing information pertaining to activities, products or services not located on the same property as the sign.

**Portable Sign:** A sign, sign board, or banner which is not permanently anchored or secured to either a building, structure or the ground; or any sign attached to a trailer or other vehicle not accessory to the vehicle or its use, but used with the express intent of advertising.

**Premises:** A lot or group of lots with one or more buildings which functions as a single use is under the same ownership or control and is not divided by a public street. Multiple tenants of single premises may share common entranceway and off-street parking. Examples of premises include a shopping center, a multiple family apartment complex, and an educational or medical campus.

**Projecting Sign:** A sign so constructed and erected as to be attached at one end to a building, metal pole or other structure, and projecting there from.

**Roof Sign:** A sign which is erected, constructed and maintained on or above the roof of a building or any portion thereof. Roof signs are prohibited in the County.

**Sign:** Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designated to be visible from outside any building or structure in which, upon which, or attached to which it may be located.

**Sign Area:** The entire area within a circle, triangle, rectangle or other geometric shape enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material, graphic or color forming an integral part of the display or message, or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed, if no advertising matter is placed thereon.

**Sign Erector:** Any person engaged in the business of erecting, constructing, altering, or removing signs on a contractual or hourly basis.

**Temporary Sign:** A sign intended to be displayed for a limited period of time

**Wall Sign:** A sign attached to, painted on, inscribed, or otherwise set upon the exterior wall or surface of any building. A mural, a sign painted or inscribed on a canopy, and channel letter signs shall be considered wall signs.

C. Computation of Sign Area.

For the purposes of this Ordinance, the total area of a sign shall be expressed in square feet and shall be computed as follows:

1. **Single-Face Sign:** The total area of a single-face sign shall be computed as the number of square feet within any single geometric shapes -- such as a square, rectangle, triangle or circle -- encompassing the extreme limits of an individual letter(s), word(s), message(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.
2. **Double-Face Signs:** For double-face signs having two (2) faces of equal size arranged and/or positioned back to back, parallel to each other, with no more than a two (2) foot space between the two faces; the area of the sign shall be computed as one-half (1/2) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.
3. **Three-Dimensional Signs:** For signs which are designed as a three- dimensioned geometric form such as a sphere, cone, cylinder, or cube; the area shall be computed as one- half (1/2) the total surface of the geometric form.

D. Permit Required for Signs

1. **Sign Erection Permit:** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign unless a zoning permit shall have been first obtained from the County, except as provided in Section 3.43 (H) (Signs Exempt from Permit Requirement). Any sign that makes use of electricity shall, in addition to a sign permit, require an electrical permit, regardless of size; also a building permit may be required.
2. **Sign Maintenance or Change of Message:** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without

change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.

3. **Sign Erector Requirements:** Permits for the erection of signs shall only be issued to licensed sign installers and general contractors qualified to carry on such work under the provisions of this Article.
4. **Permit Applications:** Applications for sign permits shall be made upon forms provided by the Mecosta County Building & Zoning Department for this purpose and shall be completed as required.

E. Certificate of Compliance

1. **Compliance Certification:** All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this Article, shall be issued a Certificate of Compliance. The County shall cause existing signs to be inspected if deemed necessary to determine continuation of compliance with the provisions of this Article.
2. **Responsibility of Compliance:** The owner of any property on which a sign is placed and the person maintaining said sign are declared to be equally responsible for the erection, safety and condition of the sign and the area in the vicinity thereof subject to provisions of this Article.

F. General Sign Provisions

All signs which project over a private road or walkway, such as street signs, directional signs, or a sign on a canopy shall have under clearance from the lowest point of the sign to the ground or grade level of not less than 8 feet.

1. **Public Rights-of-Way:** No sign (or any pole or support cable of any nature) except those established and maintained by any local, county, state, or federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this Ordinance.
2. **Traffic Interference:** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
3. **Clear Corner Vision:** No sign above a height of 36 inches shall be located within, project into, or overhang the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection, unless visual under clearance can be assured on the plans. (See graphic)
4. **Proximity to Electrical Conductors:** No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.
5. **Illumination:** No sign shall be illuminated by other than approved devices, and in no case shall any open spark or flame be used for display purposes unless specifically approved by the County Board. All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall

- light from an illuminated sign shine on adjacent property which is used for residential purposes.
6. **Fire Escapes:** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.
  7. **Wall Signs:** No wall sign shall project beyond or overhang the wall or any permanent architectural feature and shall not project above or beyond the highest point of the roof or parapet.
  8. **Freestanding Signs:** With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment. Co-location of telecommunications facilities is encouraged on freestanding signs located within the C-3 Highway Interchange District. Freestanding signs in excess of twenty five (25) feet shall meet the “Fall Zone” requirements of telecommunication towers outlined in Section 3.20,(D)(1)(f) of this Ordinance.
  9. **Electronic message boards or message board signs** in which the copy consists of an array of light, are permitted, provided
    - a. The frequency of message change is not less than five (5) seconds.
    - b. All lights in a display shall activate simultaneously, remain activated for not less than five (5) seconds, and deactivate simultaneously.
    - c. Electronic message boards and message boards shall only be half the size of the total sign
    - d. Electronic message boards shall have automatic dimming capabilities through light sensors to meet the following regulations
      - a) Maximum of 3,000 Nits during dark hours
      - b) Maximum of 7,000 Nits during daytime hours
    - e. Video animation and phasing, rolling, scrolling, flashing, blending, and other transitions to the messages are prohibited.
    - f. Electronic message board signs are permitted by right in commercial and industrial districts and permitted by special use in residential and agricultural districts.
  10. Billboards are permitted by special use in MDOT approved areas only.

**G. Signs Exempt from Permit Requirements**

No sign permit is required for signs listed below. Such exemptions, however, shall not be construed to relieve the owner for its proper location, erection, and maintenance.

1. **Government Signs:** Signs erected by or on behalf of or pursuant to the authorization of a government body
2. **Flags:** Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as a mean of advertising.
3. **Address Signs:** Signs not exceeding two (2) square feet in area

4. **Street Signs:** Signs erected by any local, county, state, or federal governments
5. **Architectural Features/Artwork:** Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
6. **Small Accessory Signs:** Any accessory sign erected on a premise which is no more than two (2) square feet in area, The total area of all small accessory signs on one premise in AG or AF districts shall not exceed eight (8) square feet, except in Residential districts in which the total area of all small accessory signs on one premise shall not exceed a total of six (6) square feet.
7. **Temporary Signs, Banners, Flags:** Temporary Signs, not specifically regulated in any other section of this Ordinance shall be permitted subject to the following conditions:
  - a. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any public sidewalk or street right-of-way.
  - b. All temporary signs must be removed within 15days of the conclusion of the event, activity, election, construction or sale, etc., for which the temporary sign is displayed. *(amendment 14-007)*
  - c. The total area, height and number of temporary signage shall not exceed the following standards:
    - a) In residential districts, temporary signage shall be limited to six (6) square feet in area, six (6) feet in height and four (4) per property
    - b) In all commercial and industrial districts, temporary signage shall not exceed 32 square feet, height of eight (8) feet and two (2) per property
    - c) In agricultural districts temporary signs shall be limited to a total of 64 square feet for all temporary signs, six (6) feet in height, and limit of six (6) signs per property.

**H. Signs Prohibited Throughout the County**

The following signs are prohibited throughout the County, notwithstanding anything to the contrary in this Article.

1. **Moving Signs:** Signs that revolve or are animated or that utilize movement or apparent movement to attract attention. No sign shall have blinking, flashing, or fluttering lights, No site shall utilize moving patterns of light so as to convey an illusion of motion or animation.
2. **Flashing Signs:** Signs which are illuminated by or in any manner incorporates lights that flash, twinkle, move, or give the appearance of movements.
3. **Banners, Streamers:** Exterior banners, pennants, spinners, other than a banner or pennant used as a permitted sign under provisions of this Article.
4. **String Lights:** Exterior string lights used in connection with a commercial premises,
5. **Unsafe Signs:** Any sign which is structurally or electrically unsafe.



6. **Utility Poles and Landscaping:** Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by any local, county, state, or federal government or a public transit agency.
7. **Business No Longer Existing (Abandoned Signs):** Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
8. **Non-anchored Signs:** Portable Signs and freestanding signs not permanently anchored or secured to either a building or the ground, except temporary signs
9. **Signs on Vehicles:** Signs displayed on any vehicle or trailer when the subject vehicle or trailer is parked in such a manner that the obvious intent is to attract attention to a business, service, or commodity on the premises.
10. **Sign Structure Without Sign:** Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to prevent the changing of the message of a sign.
11. **Roof-mounted Signs.**
12. **Appendage Signs.** (See Definition under Section 3.43)
13. **Other Signs Prohibited:** Other signs not expressly permitted shall be prohibited.

**I. Construction and Maintenance Requirements**

1. **Materials and Design:** All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads, and stresses of the latest adopted edition of the County Building Code and requirements of this Article.
2. **Erector's Imprint:** Signs which require a permit under this Article must carry the identification and address of the sign erector, electrical voltage (when applicable), and date of erection in clearly legible letters whether for the initial erection or re-hanging of a sign. In case of re-hanging or re-erection of any sign, the new erector must place his identification, address and the date on the sign.
3. **Fastenings:** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall be repaired by the erector.
4. **Freestanding Signs:** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property. Freestanding signs shall be subject to the "Fall Zone" requirements of Section 3.20,(D)(1)(f) of this Ordinance as noted above.

5. **Sanitation/Landscaping:** Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.
6. **Maintenance:** All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within fifteen (15) days of written notification of the County. Failure to repair and comply with the provisions of this Ordinance shall result in the removal of said sign structure by the County with the cost of removal assigned and billed to the property owner on which the sign is located. Failure to pay the removal costs will result in the costs being included on the next property tax assessment by the County.

J. Nonconforming Signs

1. **Intent:** It is the intent of this Article to encourage eventual elimination of signs that as a result of the adoption of this Article become non-conforming, to administer this Article to realize the removal of illegal non-conforming signs, and to avoid any unreasonable invasion of established private property rights.
2. **Lawful Existing Signs:** Any sign lawfully existing at the time of the adoption of this Article which does not fully comply with all provisions shall be considered a legal non-conforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.
3. **Continuance:** A non-conforming sign shall not:
  - a. Be expanded or changed to another nonconforming sign;
  - b. Be relocated, unless it comes into compliance with this ordinance.
  - c. Be structurally reconstructed so as to prolong the life of the sign; or so as to change the shape, size, type, placement, or design of the sign's structural parts; or so as to add illumination;
  - d. Be repaired if the sign has been structurally compromised; however face replacement and minor repairs may be done.
  - e. Be altered unless the alteration or reconstruction is in compliance with the provisions of this Article. For the purpose of this Article only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area; landscaping below the base line; or changing electrical wiring or devices, backgrounds, letters, figures, or characters.
4. **Termination of Business:** Nonconforming signs and sign structures shall be removed or made to conform within thirty (30) days of the termination of the business or use to which they are accessory.

5. **Change of Property:** If the owner of a sign or the premises on which a sign is located changes the location of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Article.
6. **Portable and Temporary Signs:** Portable and temporary signs that are nonconforming shall be altered to comply with the provisions of this Article or removed within ninety (90) days after the effective date of the adoption of this Article.
7. **Administration:** The County shall make every reasonable effort to identify all the nonconforming signs within the County. The Zoning Administrator shall keep complete records of all communications and other actions taken with respect to such nonconforming signs and all enforcement activities and actions of this Ordinance.

**K. Permitted in Residential Districts:**

1. For each dwelling unit, one (1) address sign meeting the standards identified herein.
2. Small accessory signs no more than two (2) square feet in area. The number of all small accessory signs on one premise shall not exceed three (3).
3. One freestanding sign, no more than 24 square feet, having a height of no more than eight (8) feet above grade and no closer than 12 feet from any property line for all permitted uses
4. One wall sign, no more than 32 square feet for all permitted uses.

**L. Permitted in LR:**

Height shall not exceed eight (8) feet above ground level and shall be 12 feet from any property line

1. For each dwelling unit, one (1) address sign meeting the standards identified herein.
2. Small accessory signs no more than two (2) square feet in area. These signs shall be located no closer than 12 feet from any property line. The total number of all small accessory signs on one premise shall not exceed three (3).
3. One freestanding sign, no more than 32 square feet.
4. One wall sign on promise no exceeding 20 percent of the square footage of the wall with a maximum of 100 square feet for all permitted uses.

**M. Permitted in AG and AF:**

Height shall not exceed 10 feet above ground level and must be 2 feet from any property line

1. Signs as permitted in Residential Districts as noted above.
2. The total number of all small accessory signs on one premise shall not exceed four (4).
3. Off Premise – Non Billboard Signs
  - a. Sign area for all signs shall not exceed 12 square feet and shall be placed no closer than one every one-half mile.

**N. Permitted in C-1:**

Height shall not exceed 20 feet above ground level nor be closer than 12 feet from any property line.

1. One (1) freestanding sign may be allowed per premises. Such sign shall not exceed 75 square feet in area.
2. Wall signs may be erected on the road or parking side of a structure not exceeding 20 percent of the square footage of the wall with a maximum of 50 square feet per sign.
3. Accessory signs, up to a total of 34 square feet in area shall be permitted and located no closer than five (5) feet from any property line.

**O. Permitted in C-2:**

Height shall not exceed 25 feet above ground level nor be closer than 12 feet from any property line.

1. One (1) freestanding sign may be allowed per premises. Such sign shall not exceed 64 square feet in area.
2. Wall signs may be erected on the road or parking side of a structure not exceeding 20 percent of the square footage of the wall with a maximum of 100 square feet per sign.
3. Accessory signs, up to a total of 34 square feet in area shall be permitted and located no closer than five (5) feet from any property line.

**P. Permitted in C-3:**

Height shall not exceed 30 feet above ground level nor be closer than 12 feet from any property line.

1. One (1) freestanding sign may be allowed per premises. Such sign shall not exceed 100 square feet in area.
2. Wall signs may be erected on the road or parking side of a structure not exceeding 20 percent of the square footage of the wall with a maximum of 50 square feet per sign.
3. Accessory signs, up to a total of 34 square feet in area shall be permitted and located no closer than five (5) feet from any property line.

**Q. Permitted in I-1:**

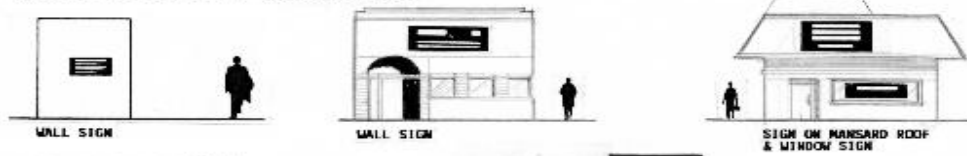
Height shall not exceed eight (8) feet above ground level nor be closer than 12 feet from any property line.

1. Wall signs may be erected on the road or parking side of a structure not exceeding 20 percent of the square footage of the wall with a maximum of 100 square feet per sign.
2. One (1) freestanding sign may be allowed per premises. Such sign shall not exceed 64 square feet in area.
3. Accessory signs, up to a total of 34 square feet in area shall be permitted and located no closer than five (5) feet from any property line.

### VARIOUS TYPES OF FREESTANDING SIGNS



### VARIOUS TYPES OF WALL SIGNS



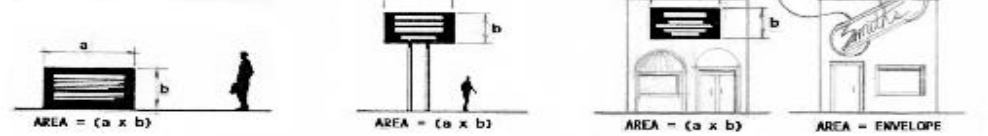
### PROJECTING SIGN



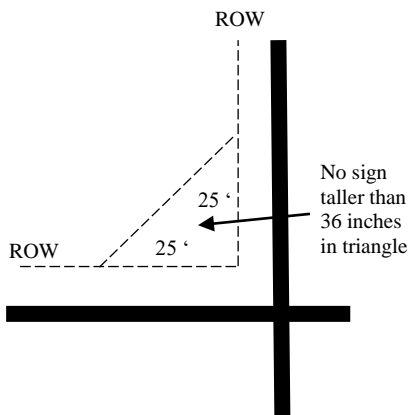
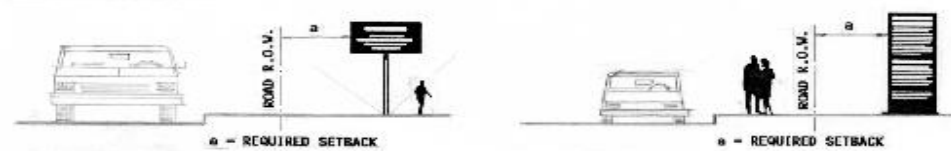
### ROOF SIGN (Not Permitted)



### SIGN MEASUREMENT



### SIGN SETBACKS



## **SECTION 3.44 ACCESSORY STRUCTURES**

- A. Customary accessory structures shall be permitted subject to the following conditions:
1. Customary accessory structures in Districts R-2, R-3, R-4, LR and MHP shall not exceed 20 feet in height nor the total ground floor area of the principle structure. Where there is no existing structure the accessory structure shall not exceed a maximum ground coverage of 15% of the lot or parcel nor exceed a maximum size of 1,200 sq. ft. Structures greater than 1,200 sq. ft. or additions to buildings that will make an existing accessory structure exceed 1,200 sq. ft. size shall require Special Use Permit approval by the Planning Commission prior to construction. *(amendment 05-008 & 14-002)*
  2. Customary accessory structures in Districts R-1, AF and AG on parcels less than 2 acres shall not exceed a maximum of 1800 sq. ft. in size. Two accessory structures not to exceed 2400 sq. ft. each shall be allowed on parcels 2-5 acres in size. On five (5) acres or greater, two 3000 sq. ft. each accessory structures shall be allowed. Accessory structures in these three zoning districts may not exceed a maximum height of 24 feet. Any requests for accessory structures exceeding the maximum square footage or height allowed shall require Special Use Permit approval by the Planning Commission. *(amendment 07-007 & 14-002)*
  3. Customary accessory uses in Districts C-1, C-2, C-3 and I Districts shall not exceed the maximum of 5,000 square feet or a maximum height of 30 feet. *(amendment 05-008)*
- B. The Planning Commission, at a Special Use Permit hearing, may approve accessory structures to exceed the maximum size requirements as follows:
1. In the R-2, R-3, R-4 and LR Districts accessory structures may be approved to exceed the size of the home, 15% of the lot size or the maximum 1,200 sq. ft. size requirement. *(amendment 14-002)*
  2. In Districts R-1, AF and AG, accessory structures may be approved to exceed the allowable square footage. *(amendment #07-007 & 14-002)*
  3. To promote and continue the residential appearance and character in the lake and river areas of the County oversized accessory structures located in lake or river front areas may be required by the Planning Commission to do some or all the following:
    - a. Structure may be required to be the same finishing material as the residential structure associated or under the same ownership with the proposed accessory structure
      - a) If no residential structure is associated with the property, the new structure may be required have a finished material similar to neighboring properties.
    - b. Structures may be required to be built with some architectural features to make them appear less like an accessory structure and more like a residential structure. Some examples:
      - a) Windows on visible sides
      - b) Overhangs
      - c) Dormers

- d) Landscaping
- e) Defined entrance doors/porches
- f) Overhead garage doors
- 4. Requests for accessory structures to exceed the maximum height requirements, as stated above. (*amendment 05-008*)
- 5. Approval by the Planning Commission will be based upon a determination that the request is consistent with all Special Use standards of the Zoning Ordinance as stated in Article V, Section 5.0 and that the accessory structure will not be in conflict with the character of existing buildings in the area.
- C. Accessory structures which qualify as an agricultural building under Public Act 230 of 1972, as amended (State Building Code), are exempt from size (square footage and height) and quantity (number of structures) restrictions. Agricultural buildings shall comply with the setback requirements for the district in which it is located. (*amendment 12-002*)
- D. Customary accessory structures in Districts R1, R2, R3, R4, LR and MHP shall be limited to one (1). In Districts AG and AF, the maximum shall be two (2). Requests for more than the maximum number allowed will need Special Use Permit approval by the Planning Commission. (*amendment 05-008*)
- E. Small sheds or playhouses (under 200 sq. ft.) are permitted in all zoning districts with only a Zoning Clearance permit.
  - 1. In Districts R1, R2, R3, R4, LR as well as AG and AF on parcels less than 2 acres, a maximum of three (3) shall be allowed. (*amendment 08-004 & 12-002*)
  - 2. In Districts AG and AF on parcels of 2 to 5 acres, a maximum of four (4) shall be allowed. On five (5) acres or greater in these districts, a maximum of one (1) per acre shall be allowed. Requests for more than the allowable number of sheds shall require Special Use Permit approval by the Planning Commission. (*amendment 08-004 & 12-002*)
- F. Accessory structures attached to primary structures in residential and agricultural districts (R-1, R-2, R-3, R-4, LR, MHP, AG, & AF) shall not be considered an accessory structure under Section 3.44, but shall conform to setback and height limitations of the district. (*amendment 12-002*)

### **SECTION 3.45 KEYHOLE DEVELOPMENT**

- A. The following restrictions are intended to limit the number of users of lake, river or stream frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the County.
  - 1. In all Zoning Districts, there shall be at least one hundred (100) feet of lake, river or stream frontage as measured along the normal high water mark of the lake, river or stream for each single family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit utilizing or accessing the lake, river or stream frontage.
  - 2. Any multiple-unit residential development in any Zoning District that shares a common lake, river or stream front area or frontage may not permit lake, river or stream use or access to more than one (1) single-family home, dwelling unit, cottage, condominium

- unit, site condominium unit, or apartment unit for each one hundred (100) feet of lake, river or stream frontage in such common lake, river or stream front area, as measured along the normal high water mark line of the lake, river or stream.
3. Any multiple-unit residential development shall have not more than one (1) dock for each one hundred (100) feet of lake, river or stream frontage, as measured along the normal high water mark of the lake, river or stream, in any Zoning district in the county. All such docks and docking or mooring shall also comply with all other applicable County Ordinances.
  4. The restrictions contained in this section shall apply to all lots and parcels on or abutting any lake, river or stream in all Zoning Districts, regardless of whether access to the lake, river or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license or lease.
  5. In all Zoning Districts, no lake, river or stream access, boat ramp, shore station, dock, boat launch, or shoreline abutting a lake, river or stream shall be utilized for commercial business, outdoor recreational, (or entertainment) facilities, institutional or non-residential or non-agricultural uses or purposes unless such use is authorized pursuant to a Special Use approval or a Planned Unit Development (PUD) approval.
  6. The lake, river and stream access and use regulations contained in this section shall be fully applicable to all Planned Unit Development (PUD) and Special Use projects or developments.
  7. In addition to the above limitations, no easement, private park, common area, lot or access property abutting or adjoining a lake, river or stream shall be used to permit access to the lake, river or stream for more than one (1) single-family home, dwelling unit, apartment unit or any other use unless such additional access use is approved as a Special Use or as a Planned Unit Development (PUD).
  8. For purposes of meeting the minimum required water frontages mentioned above, water frontage around the shore of an island shall not be included as part of the mainland.
  9. These water access regulations shall be in addition to and shall not negate any of the restrictions or other requirements of this Zoning Ordinance or the Zoning District involved.
  10. The nonconforming use provisions of Article 6 of this Zoning Ordinance shall be applicable to this Section except the following shall be permissible notwithstanding the provisions of Article 6 of this Zoning Ordinance:
    - a. Any lot of record having frontage on a body of water may have one (1) dock even though the lot has less than one hundred (100) feet of frontage on the water. This Section shall not be construed to prevent docks, even if docks have not been installed, where recorded vested rights were granted prior to the adoption of this Zoning Ordinance amendment.
    - b. Any easement, park, common area or access property having frontage on a body of water which lawfully exists as of the date of the adoption of this Section may have one (1) dock even though it has less than one hundred (100) feet of frontage on the water.



- c. If a given property, easement, park, common area or access property has a right to have a dock under this Section or Article 6, that right to utilize a dock shall continue even if the dock is seasonal in nature, has to be repaired or replaced or is not utilized every year.
11. Although the owner of a property with frontage on a lake, river or stream may permit family members and occasional invites to use the water frontage, dock and watercraft owned by the owner as incidental to the residential use of the property, the owner shall not permit anyone other than a family member of a person co-owning or residing on the property fronting on the water to moor a watercraft overnight at the dock on the property or in the waters adjacent to the property. Nor shall the owner of such a property enter into an agreement to permit anyone to use the shoreline (or dock thereof) of water unless such person is leasing a residence on the property and is in possession of the entire waterfront property. This subsection shall apply only to the residential Zoned Districts.

**SECTION 3.46 OPEN SPACE COMMUNITIES (AMENDMENT 04-008)**

**A. Intent**

Any parcel of land in Mecosta County subject to this Ordinance which is zoned in such a manner as to allow for residential development may be developed, at the option of the landowner, with the same number of dwelling units that could be otherwise be developed on the entire land area on a portion of the land not to exceed fifty (50) percent of the gross area of the Open Space Community.

**B. Site Eligibility**

1. Location: An Open Space Community may be created in the AG, AF, and R-1 zoning districts
2. Access: The open space site plan shall have direct access to an improved public roadway suitable for year-round travel. Any interior access roads shall be designed and built in accordance with the Private Road Design and Guidelines, Article III, Section 3.21.

**C. Submission Requirements**

1. Open Space Communities may be submitted as a Site Condominium or Planned Unit Development and are subject to Class “A” site plan review by the Mecosta County Planning Commission.
2. A maximum of fifty (50) percent of the parent parcel may be divided into new parcels averaging not less than 20,000 square feet in area, and not less than 100 feet wide. Minimum building setback distances are as follows: Front – 30 feet; Rear – 10 feet; Side – 8 feet.
3. At least fifty (50) percent of the parent parcel that remains undivided shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that run with the land.

**SECTION 3.47 MANUFACTURED HOUSING (AMENDMENT 06-002)**

Manufactured (Single and double wide) homes sited on individual lots or parcels shall meet the minimum standards for: lot size, lot width, yard setbacks, floor area and dwelling unit width for the district in which they are located and shall also meet the following standards.

- A. Manufactured Homes placed in Mecosta County must comply with the 1994 HUD construction and safety standards (which allows manufactured homes constructed after January 1, 1984 equipped with fire sensors/smoke detectors, GFCIs in kitchens and bathrooms, egress windows in bedrooms and drywalled furnace rooms), as evidenced by the home's title, certificate of origin, letter from manufacturer or, if necessary, by the County Building Inspector.
- B. All required permits pertaining to the installation of manufactured homes on private property or in parks shall be obtained from the Mecosta County Building Department and all building code requirements must be met before a Certificate of Occupancy (C of O) can be issued. No home may be occupied until a C of O is issued.
- C. Manufactured homes may not be used as Accessory Buildings.

**SECTION 3.48 BLIGHT CONTROL** (AMENDMENT 06-011)

- A. Purpose and Intent: The purpose of this section is to:
  - 1. Provide for the regulation and control of the storage, accumulation and disposition of junk, trash, rubbish, abandoned vehicles, wrecked, dismantled or unusable vehicles and building materials;
  - 2. Provide for the maintenance of blighted structures and other blighting factors or causes of blight and deterioration thereof;
  - 3. Secure the public health, safety and welfare of the residents and property owners of Mecosta County, by the regulation of the outdoor parking and storage of junk, trash, rubbish, building materials, blighted structures and other blighting factors within the County;
  - 4. Provide penalties for the violation of this article; and
  - 5. Repeal any ordinances or parts of ordinances in conflict with this article.
- B. Definitions: The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Abandoned Vehicle:** Any vehicle which has remained on private property for a period of 48 continuous hours or more without the consent of the owner or occupant of the property.

**Blighted Structure:** Any dwelling, garage or out-building or any factory, shop, store, office building, warehouse or any other structure or part of a structure which, because of fire, wind or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, or useful for the purpose for which it may have been intended.

**Building Materials:** Shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other material used in constructing any structure.

**Fence:** Shall mean a fence constructed of wood, cement blocks or other commonly used fencing material, not less than eight (8) feet or more than ten (10) feet in height, so constructed as to make the prohibited items not visible to public view. Construction of such fences must be in accordance with valid building and zoning permits.

**Junk:** Shall include, without limitation, parts of machinery or motor vehicles, uninhabitable mobile homes, broken and unusable furniture, stoves, refrigerators or other appliances, discarded clothing, bedding, floor covering, wallpaper, newspapers or magazines, excrement, yard debris or rubbish, industrial waste, rubber tires, batteries, remnants of wood, metal, rags, rope, papers, plastic or any other cast-off material of any kind, whether or not such material could be put to any reasonable use.

**Junk Motor Vehicle:** Any motor vehicle which is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall also include, whether licensed or not, any motor vehicle which is inoperable for any reason for a period in excess of 30 days, with the exception of unlicensed, but operable vehicles which are kept as the stock in trade of a licensed and established new or used automobile or other motorized vehicle dealer; or vehicles upon the premises of a motor vehicle repair garage.

**Private Property:** Shall mean any lot or parcel of land owned or occupied by any person, corporation, or other entity, whether improved with a dwelling, house, building or other structure, whether inhabited or temporarily or continuously uninhabited or vacant.

**Trash and Rubbish:** Any and all forms of debris not otherwise classified in this section of the ordinance.

**Walled Enclosure:** A wall or a fence not less than eight (8) feet or more than ten (10) feet in height, which shall completely obstruct and prohibit visual observation of the contents within such enclosure.

- C. **Nuisance:** It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk vehicles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private property within the county tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, the increase in criminal activity, and therefore, is contrary to the public peace, health, safety and general welfare of the community.
- D. **Trash, rubbish, junk or junk vehicles:** It shall be unlawful for any person to store, or to permit the storage or accumulation of trash, rubbish, junk, junk vehicles or abandoned vehicles on any private property in the county except within a completely enclosed building, a completely walled or fenced enclosure, or upon the premises of a property zoned or legally operating, licensed or approved junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, operator of an automobile repair garage and/or automobile wrecker business. Also exempt are articles used to farm or conduct farm operations in accordance with generally accepted agricultural and management practices under the Michigan Right to Farm Act, being 1981 PA 93, as amended. In the event junk, a junk vehicle or an abandoned vehicle is owned by a person other than the owner of the property on which it is located, both the property owner and the registered owner of the vehicle are responsible for a civil infraction and the zoning administrator may issue a civil infraction citation to either or both.
- E. **Blighted or vacant structures:** It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, accessory building, factory, shop, store or warehouse unless the structure is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance by unauthorized persons or unless such structure is in the course of construction in accordance with valid building and zoning permits issued by the county and unless such construction is completed within a reasonable time.

- F. **Building materials:** It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except:
1. In a completely enclosed building.
  2. Where such building materials are part of the stock in trade or business located on such property.
  3. When such materials are being used in the construction of a structure on the property in accordance with valid building and zoning permits issued by the county and unless such construction is completed within a reasonable time.
- G. **Hardship:** In the event of special or peculiar hardship beyond the control of any individual or entity due to unforeseen circumstances by reason of the application of the provisions of this ordinance, the zoning administrator may grant the individual or entity a stay of enforcement for a period not to exceed six (6) months, provided however, that in no case shall a stay be granted if such action would have unreasonable adverse effects to the owners or occupants of adjoining properties.
- H. **Penalties:** See Article VIII Permitting Enforcement, and Penalties, Section 8.5 Violations and Penalties.

**SECTION 3.49 MINI CABINS** *(AMENDMENT NO. 07-003, 15-003, 18-003)*

A mini cabin shall be classified as a seasonal recreational camping structure with a minimum size of 120 square feet and a maximum of 500 square feet living area. Mini cabins shall be permitted provided the following requirements are met:

- A. Mini cabins shall be sited in a licensed campground on an approved lot (limit one cabin per lot);
- B. Mini cabins may have electric, water, and sewage disposal hook ups;
- C. Mini cabins shall meet all requirements for density, setback and any other applicable zoning requirements that apply to tents, trailers and recreational vehicles sited within the campground;
- D. Mini cabins shall be occupied on a temporary basis;
- E. No more than 20 percent of the licensed campground lots shall be developed in this manner.

**SECTION 3.50 WIND GENERATED ELECTRICAL ENERGY SYSTEMS** *(AMENDMENT 09-001)*

A. **Purpose**

The purpose of this regulation is to enable construction and operation of wind generated electrical energy systems (hereafter referred to as “wind energy system(s)”) that convert wind energy into electricity and to promote their safe, effective and efficient use by providing reasonable standards and restrictions which will preserve public health, safety and welfare of the residents of Mecosta County.

B. **Definitions**

**Ambient Sound Level** is the amount of background noise at a given location prior to the installation of a wind energy system which may include, but not be limited to, traffic,

machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dBA weighted scale as defined by the American National Standards Institute.

**Anemometer** is a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

**Decibel** is defined as a unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dBA weighted scale as defined by the American National Standards Institute.

**Large Wind Energy Turbine** is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. These have a nameplate capacity that identifies the maximum kilowatts.

**Medium Wind Energy Turbine** is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. This has a nameplate capacity that shall not exceed two hundred fifty (250) kilowatts. The Total Height shall not exceed one hundred and fifty (150) feet.

**Rotor Diameter** is the cross-sectional dimension of the circle swept by the rotating blades of a wind energy turbine.

**Small Tower-Mounted Wind Energy Turbine** is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. This has a nameplate capacity that shall not exceed thirty (30) kilowatts. The Total Height shall not exceed one hundred twenty (120) feet.

**Small Structure-Mounted Wind Energy Turbine** converts wind energy into electricity through the use of equipment which includes any base, blade foundation, generator, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. This turbine shall be attached to a structure's roof, walls, or other elevated surface. This has a nameplate capacity that shall not exceed ten (10) kilowatts. The Total Height shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

**Total Height** is the vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the wind energy turbine.

**Tower** is a freestanding monopole or other engineered structural system that supports a wind energy system.

**Wind Energy Turbine** is any structure-mounted, small, medium, or large wind energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the rotor, tower, and pad transformer, if any.

- C. A wind energy system shall be permitted as a “Special Use” in all zoning classifications subject to all of the following requirements:
1. The wind energy system shall be built at a distance from all property lines not leased or owned by the owner of the system that is not less than 1.5 times the height of the system tower including the top of the blade in its vertical position.
  2. The minimum vertical clearance from the blade tip to the ground shall not be less than 20 feet.
  3. The sound created by the system shall not exceed 55 dBA at the closest property line of property not served by the system.
  4. The system shall comply with all applicable State Construction and Electrical codes and Aviation regulations.
  5. A building permit shall be required for the installation of all wind energy systems. Building Permit fee for these systems will be set by Mecosta County Building Department. The building permit application shall be accompanied by two (2) copies of the plot plan which includes the following:
    - a. Property lines and physical dimensions of the property
    - b. Location, dimensions, and types of existing major structures on the property
    - c. Location of the proposed wind system tower
    - d. The right-of-way of any public road that is contiguous with the property
    - e. Any overhead utility lines
    - f. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed) as certified and sealed by a professional engineer
    - g. Tower foundation structural design documents as certified and sealed by a professional engineer
    - h. Tower structural design documents as certified and sealed by a professional engineer
    - i. Structure-Mounted Wind Energy Turbines as certified and sealed by a professional engineer
    - j. Any addition to the existing wind energy system shall require Building Department approval.
  6. A permit issued pursuant to this ordinance shall expire if:
    - a. The wind energy system is not installed and functioning within 12 months from the date the permit is issued; or,
    - b. The wind energy system is out of service or otherwise unused for a continuous 12-month period.
  7. All interconnected customer owned wind energy system generators shall comply with all applicable Michigan Public Service Commission and Electric supplier interconnection

requirements. Copy of approval or acceptance from applicant's power company shall be furnished with the applicant's Special Use application.

- D. Mecosta County may designate up to 10% of the land under its jurisdiction as land not available for the location of a wind energy system, such as subdivisions, site condos and other similar locations.
- E. Mecosta County Planning Commission shall impose a reasonable fee for the review and approval of a Special Use under this section.
- F. Mecosta County may require from the owner of the system a bond or other security to cover the costs reasonably associated with the installation, maintenance, or removal of a wind energy system.
- G. Before a wind energy system is installed, the owner of the system shall notify the owner's servicing electric supplier that the owner intends to install an interconnected wind energy system generator.
- H. The owner of a wind energy system shall establish, file and follow a regular maintenance program.
- I. Except for Subsection C. 4, above, the owner of a wind energy system may apply to the Mecosta County Zoning Board of Appeals for a variance from the requirements of this section.
- J. An owner of a wind energy system shall not be found to be a public or private nuisance if the system complies with the requirements of this section. This subsection applies notwithstanding any of the following:
  - 1. Change in ownership
  - 2. Temporary cessation or interruption in producing electricity by the system
  - 3. New Technology
- K. Abandonment
  - 1. A wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Mecosta County Zoning Administrator may issue a Notice of Abandonment (via certified mail) to the owner of the system that is deemed to have been abandoned. The owner shall have the right to respond, in writing, to the Notice of Abandonment within 30 days from Notice receipt date. If the owner provides information that demonstrates the system has not been abandoned, the Administrator shall withdraw the Notice of Abandonment.
  - 2. If the system is determined to be abandoned, the owner of the system shall remove the wind generator from the tower at the Owner's expense within 3 months of the receipt of Notice of Abandonment. If the owner fails to remove the wind generator system, the Administrator may pursue legal action through the Mecosta County Prosecutor's office to have the wind generator removed at the owner's expense.

**SECTION 3.51 SOLAR ENERGY SYSTEMS (AMENDEMENT 18-009)**

- A. Purpose

The purpose of this regulation is to enable construction and operation of Solar Energy Systems that convert solar energy into electricity and to promote their safe, effective and efficient use by providing reasonable standards and restrictions which will preserve public health, safety and welfare of the residents of Mecosta County.

**B. Definitions**

1. **Detached Solar Energy System:** Also known as a Ground Mounted Systems, a solar system that is not attached directly to a building, but is supported by a structure that is built on the ground.
2. **Attached Solar Energy System:** A solar system in which solar panels are mounted directly on a building, typically the roof.
3. **Solar Farm (Off-site Solar Energy Systems):** The installation on an area of land in which a large number of solar panels are set up to generate electricity primarily for offsite use
4. **Solar Photovoltaic System (Solar Energy System):** The total components and subsystems that, in combination, convert solar energy into electric energy suitable for connection to utilization load.
5. **Photovoltaic:** A method of generating electrical power by converting solar radiation (sunlight) into direct current electricity using semiconductors.

**C. Types of Solar Energy Systems:**

1. **On-site Solar Energy Systems** generally provide energy primarily for on-site uses. On-site systems may be comprised of the following:
  - a. Attached solar energy systems on any structure.
  - b. Ground-mounted solar energy systems
2. **Solar Farms (Off-site Solar Energy Systems)** are those systems that provide energy for primarily off-site uses.

**D. Regulations**

1. **General Regulations**
  - a. All solar energy systems must have proper building and electrical permits prior to installation
  - b. All solar energy systems must meet setback requirements of zoning district.
  - c. The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light.
  - d. Solar energy systems shall be permanently affixed to the ground or a structure.
  - e. On-site power lines related to SES shall be buried except where necessary to connect to existing overhead transmission lines or where prohibited by natural features.
2. **On-Site Solar Energy Systems**



- a. On-site solar energy systems shall be permitted as an accessory use in all zoning districts.
  - b. Attached solar energy systems
    - a) Rooftop mounted systems shall not extend more than 10 feet above the height of the existing roof and shall not exceed the maximum height allowance in the zoning district
    - b) Wall mounted systems shall not extend above the height of the wall in which it is mounted.
    - c) Solar energy collectors mounted on the roof of a building shall be only of such weight as can safely be supported by the roof. Proof thereof, in the form of certification by a professional engineer or other qualified person, shall be submitted to the Building Official prior to installation; such certification shall be subject to the Building Official's approval.
  - c. Detached solar energy systems
    - a) Shall not be located in the front yard without a special use approval from the plan commission
    - b) Shall not be taller than 20 feet
    - c) Shall be included in the calculation of percent ground coverage for the property and shall not exceed the maximum unless granted otherwise within this ordinance or by special use.
3. Off-site Solar Energy Systems
- a. Off-site solar energy systems are permitted by special use approval in the R-1, AF, AG, and I districts.
  - b. Ground cover shall be required after installation to prevent erosion of the land
    - a) If ground cover is done using native plants which attract and promote pollination a 10% increase in land cover is permitted
  - c. Off-site systems may cover 65% of the land including panels and equipment.
  - d. Fencing is required to meet the National Electrical Code
- E. Removal: Removal of solar panels is required when solar panels are no longer producing power for more than 12 months. Below are the requirements for removal to be provided at the time of special use application.
- 1. Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no power production for twelve (12) months, etc.)
  - 2. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and building foundations to a depth of five (5) feet below grade.
  - 3. Restoration of property to the condition prior to development of the Solar Energy System.
  - 4. The timeframe for completion of decommissioning activities.

5. Description of any agreement (e.g., lease) with the landowner regarding decommissioning.
6. Provisions for updating the decommissioning plan.
7. A statement signed by the owner or operator that they take full responsibility for reclaiming the site in accordance with the decommissioning plan and the Special Land Use Permit upon cessation of use.
8. A Mecosta County Building and Zoning inspector shall conduct a final inspection to confirm that the Solar Energy System has been decommissioned consistent with the provisions of the decommissioning plan.
9. Any property that is no longer producing power and has not gone through the decommissioning process will be considered in violation of the Mecosta County Zoning Ordinance.

## **ARTICLE IV SITE PLAN REVIEW PROCEDURES AND STANDARDS**

### **SECTION 4.1 SITE PLAN REVIEW**

- A. Statement of Purpose: The purpose of site plan review is to provide for consultation and cooperation between the land developer and the County in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of adjacent properties. It shall be the further purpose of this Section to insure that each proposed development and its components, appearance, and function is in compliance with this Ordinance, other county ordinances, and state and federal laws. These purposes apply to development of previously unimproved sites; to the redevelopment, expansion, contraction or alteration of existing sites; and to the alteration or replacement of existing uses.

Further purposes of site plan approval shall include: privacy, efficiency for the public and local government servicing, preservation of the natural landscape, emergency access, effective drainage, vehicular and pedestrian safety and conveniences; prevention of air, water and noise pollution; and limitation of obnoxious odors, glare, and exposure to toxic substances and wastes.

The site plan review procedures and standards in this Section are intended to provide a consistent and uniform method of review of proposed development plans. Through the application of the following provisions, the attainment of the Mecosta County Master Plan will be assured, and the County will develop in an orderly fashion.

- B. Approval by Planning Commission Required:

1. Class A Site Plan Required. Submission of a Class A site plan shall be required for any of the following:
  - a. Any development or use for which submission of a Class A site plan is required by provisions of this Ordinance.
  - b. Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. This shall include alterations to construct or relocate pedestrian entrances or windows. This requirement shall in no way permit the expansion of a nonconforming structure so as to become more nonconforming or increase the area already in violation of the provisions of this zoning ordinance.
  - c. Any proposal to change, replace with a different use, add or recommence a use on an existing site, including expansions in area, volume or intensity of an existing use unless otherwise permitted by this Ordinance.
  - d. All condominium developments, except condominium developments of fewer than three (3) units.
  - e. Any proposal to build, expand or decrease an off-street parking lot; or to resurface an off-street parking lot when construction includes resurfacing, drainage alterations, or addition or replacement of base or sub-grade.
  - f. Any other change in use or development that could affect compliance with the standards set forth in this Ordinance.

- g. Any proposal to create, expand or alter a use or structure which involves using, storing, or generating hazardous substances.
  - h. Special Land Uses in all districts, except single and two-family dwelling units on individual lots, residential accessory structures and home occupations, which shall follow requirements in Section 4.1, H.2 (*Amendment No. PA02-001, 18-004*).
  - i. Wireless communication facilities.
- C. **Application Submittal:** Application for site plan review shall be made to the County by filing of not less than ten (10) copies of an application form and detailed site plan with the office of the Zoning Administrator at least sixty (60) calendar days in advance of the regularly scheduled Planning Commission meeting at which the plan is to be first considered. Fees are required to be paid within the fee schedule in effect as established by the County Board at time application is made.

The Zoning Administrator shall examine the site plan to determine that it contains all the necessary information. If it is incomplete, it shall be returned to the applicant. If it is generally complete and appears to comply with the Zoning Ordinance, it shall be processed in accordance with this Ordinance.

1. **Application Form:** Each submittal for Site Plan Review, shall be accompanied by a completed application form furnished by the County and include the following information:
- a. The applicant's name, address, and phone number.
  - b. The address and parcel number of the property.
  - c. A signed statement that the applicant is the owner of the property or has a legal financial interest in the property (i.e., purchase agreement).
  - d. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
  - e. Project description, including the total project title, number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, and other pertinent information.
  - f. The gross and net acreage of all lots or parcels in the project.
  - g. Existing zoning classification, land uses, and structures on the subject parcel.
  - h. Name and address of developer (if different from the applicant), engineer, architect and/or land surveyor.
  - i. Project completion schedule/development phases.
  - j. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands. Indication of whether any formal impact statements are required.

2. Site Plan Information: Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and all land within 150 feet of the site. The scale of the site plan shall be not less than 1 inch = 50 feet if the subject property is less than 3 acres, and 1 inch = 100 feet if three acres or more. If multiple sheets are used, each shall be labeled and the preparer identified. If there is an accurate site plan for the lot on file with the County, the Zoning Administrator may waive the requirement for a site plan. The following information shall be included:
  - a. Name of development and general location sketch.
  - b. Name, address and phone number of owner(s), developer, and designer.
  - c. North arrow, scale, and date of original drawing and revisions.
  - d. The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, Registered Land Surveyor or Registered Professional Community Planner. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to existing structures may be prepared by the builder or contractor.
  - e. A legal description and address of the property in question.
  - f. The area of the site in square feet and acres excluding all existing and proposed public rights-of-way.
  - g. The dimensions of all lots and subject properties, showing the relationship of the subject property to abutting properties, including lots across rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated.
  - h. Existing topographic elevations at two-foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions. Indicate direction of drainage flow.
  - i. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands.
  - j. Location and type of significant existing vegetation, including location of all existing trees over 5 inches in diameter.
  - k. Any significant site amenities and unique features.
  - l. Existing land uses and zoning classification of the subject parcels and adjacent parcels.
  - m. All required minimum setbacks from the existing or proposed right-of-way and from adjacent lots.
  - n. The location and dimensions (length, width, height) of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property.

- o. The location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, alleys, and driveway locations to abutting streets.
- p. With residential proposals, a site summary indicating the number and location of one bedroom units, two bedroom units, etc., typical floor plans with the square feet on floor areas; density computation, recreation facilities, open spaces, street names, and lot coverage.
- q. With non-residential proposals, the number of offices, number of employees, the number of floors and typical floor plans.
- r. Proposed parking lots including layout and typical dimensions of parking spaces, number of spaces provided (including how computed per ordinance requirements) and type of surfacing.
- s. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development.
- t. Proposed traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site and the proposed location and dimensions of any required pedestrian sidewalks. Designate loading and unloading areas, barrier free access, any fire lanes, and carports.
- u. Proposed finish grade of buildings, driveways, walkways, and parking lots.
- v. Proposed type of building materials, roof design, projections, canopies and overhangs, roof-located mechanical equipment, such as: air conditioning, heating units and transformers that will be visible from the exterior.
- w. Proposed water service including any proposed tap ins, main extensions or extensions for adequate fire hydrant spacing, and/or considerations for extensions to loop other public water mains.
- x. Proposed sanitary sewer facilities and location of all existing utilities, easements, vacations and the general placement of lines, manholes, tap ins, pump stations, and lift stations.
- y. Proposed storm water management plan including design of sewers, outlets (enclosed or open ditches), and retention or detention ponds. Sufficient data regarding site run-off estimates and off-site drainage patterns shall be provided to permit review of feasibility and permanency of drainage detention and/or retention as well as the impact on local surface and groundwater. The plan shall indicate location and status of any floor drains in structures on the site. The point of discharge for all drains and pipes should be specified on the site plan.
- z. Locations of existing and proposed fire hydrants with reasonable access thereto for fire fighting, police and other emergency equipment.
- aa. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.
- bb. Soil erosion and sedimentation control measures.

- cc. Detailed landscaping plan indicating location, types and sizes of material.
  - dd. All proposed screening and free standing architectural walls, including typical cross-sections and the height above ground on both sides.
  - ee. The dimensions and location of all signs, both wall signs and free-standing signs and of lighting structures and shielding.
  - ff. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
  - gg. Location and specifications for any existing or proposed outdoor or below ground storage facilities as well as any screening or containment structures or clear zones required by government authorities.
  - hh. Easements for proposed public rights-of-way, utilities, access, shared access, and drainage.
  - ii. Notation of any variances which have been or must be secured.
  - jj. Notation of performance guarantees to be provided including amounts, types, and terms.
  - kk. Statement that applicant will comply with state, local and federal laws, as applicable to the site or intended use.
  - ll. Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or County. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services, impact on historical or cultural resources, displacement of people or other uses as a result of the proposed development, alterations of the character of the surrounding area, effect on the County 's tax base and adjacent property values.
  - mm. Other data which the County may reasonably deem necessary for adequate review.
  - nn. The site plan shall indicate size, location and description of any proposed interior or exterior areas or structures for storing, using, loading or unloading of hazardous substances. A listing of types and quantities of hazardous substances which will be used or stored on-site in quantities greater than 100 kilograms or 25 gallons per month.
  - oo. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
3. Phased Development: For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated. A detailed site plan need be submitted only for that portion of the property for which a building permit will be applied for; a general site plan which clearly indicates the overall project intent may be submitted for the remainder of the site.
4. Pre-application Conference: A pre-application conference may take place to review a generalized site plan presented by a prospective applicant for consideration of the overall idea of the development. The purpose of the conference is to discuss basic questions

regarding use, density, integration with existing development in the area and impacts on and the availability of public infrastructure. Also, the applicant may be presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance. The conference may be scheduled by a prospective applicant with the Zoning Administrator and such other County representatives, as appropriate, including one member of the Planning Commission.

- D. Criteria for Granting Site Plan Approval: Each site plan shall conform to all applicable provisions of this Zoning Ordinance. The following criteria shall be used by the Planning Commission as a basis upon which site plans will be reviewed and approved. The County shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:
1. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
  2. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in this Ordinance.
  3. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
  4. The site plan shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users. Where landscaping is provided, there must be provision for maintaining all plantings through a regular program of fertilizing, irrigating, pruning, mowing and replacing all dead and diseased materials.
  5. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
  6. There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to insure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
  7. All streets shall be developed in accordance with the Michigan Land Division Act and the County Road Commission design specifications. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a County recognized source of reference. The applicant may be required to dedicate adequate land and improvements to the County in order to achieve access, which is safe and convenient.



8. Special attention shall be given to proper site drainage. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjacent lots or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm-water facilities, and the prevention of erosion and dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Where possible and practical, drainage design shall recognize existing natural drainage patterns. Final grades may be required to conform to existing or future grades of adjacent properties.
9. All off-street parking, loading and unloading areas and outside storage areas, including areas for storage of trash, that face or are visible from adjacent residential districts or public thoroughfares, shall be screened by walls or landscaping of effective height. Building entrances designed for vehicular access shall not access any building through the front yard of a development.
10. Exterior lighting shall be so arranged and limited in intensity and height so that it is deflected away from adjacent lots and so that it does not impede vision of drivers along adjacent streets.
11. Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
12. Any use permitted in any zoning district must comply with all applicable requirements of state, local, and federal statutes including health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, floodplains, wetlands, and requirements of the State Fire Marshall. Site plan approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
13. An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the ground water strata; to act as a natural drainage system and solve storm water drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.
14. It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the County and with the County Master Plan.
15. A major objective shall be to retain, enhance and protect the quality, value and privacy of single family land uses.

16. All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.
  17. All sites shall be designed to comply with State and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.
- E. Review and Approval: Site Plans shall be reviewed in accordance with the following procedures:
1. Department Review: The Zoning Administrator shall distribute site plans and secure comments within thirty (30) days of receipt of application, from the County Building Department, Road Commission, Drain Commissioner and the County or consultant Engineer and Planner, if required, and forward all comments to the Planning Commission for its review. The Planning Commission shall review the plans and may solicit further comments from an Engineer, Planning Consultant and other agencies, groups or persons, as appropriate.
  2. Site Plan Approval. The County Planning Commission is hereby authorized to review and approve, with or without conditions or to review and deny approval, all Class A site plans submitted under this Ordinance. Guidelines for consideration of each case shall follow the zoning ordinance and other applicable ordinances. When the Commission approves a Class A site plan with conditions from the applicant, the Zoning Administrator shall require a revised site plan with a revision date, indicating said conditions on the site plan.
  3. Record of Action. Each action taken with reference to Class A site plan review and approval shall be duly recorded in minutes of the Planning Commission.
  4. Final Site Plan. When a Class A site plan approval is required, no building permit shall be issued until three copies of a final Class A site plan, which includes all conditions of approval, a revision date and notation of all variances has been signed by the Planning Commission, the Zoning Administrator or their designees. Prior to issuance of a permit, one copy of the final signed plan shall be filed with each of the following: Clerk, Building Official and the Applicant.
- F. Failure to obtain Building Permit: Site plan approval shall be valid for one year from the date of approval. If an applicant does not obtain a building permit within one year after site plan approval, the site plan approval expires and is of no force or effect, unless extended by the Planning Commission. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner.
- G. Conformity to Approved Site Plan Required. Following Approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the sanctions of Article 12.

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator two copies of an "as built" site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building. A Certificate of Compliance shall be withheld by the Zoning Administrator in any case where the site plan and major conditions as approved by the Planning Commission have not been complied with. Any minor variations may be approved

by the Zoning Administrator, and shall be reported within 30 days to the Planning Commission after the issuance of Certificate of Compliance.

**H. Approval by Zoning Administrator Required:**

1. Site Plan Required. Submission of a site plan shall be required in the following circumstances:
  - a. Single and two-family dwelling units on individual lots.
  - b. Residential accessory buildings.
  - c. Home Occupations (*Amendment 18-004*)
  - d. In addition, uses with approved site plans or existing buildings which propose a change constituting ten (10) percent or less of the building floor area or ten percent or less of the required parking spaces may be reviewed, approved and administrated by the Zoning Administrator.
  - e. Uses or activities not requiring site plan review before the Planning Commission shall include a sketch plan with accurate dimensions and submitted to the Zoning Administrator for review showing the following information:
2. Site Plan Information: Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and include the following information:
  - a. North point and drawn in legible scale.
  - b. Exact dimensions of the property including bearings and distances as described in the legal description.
  - c. The location of the existing and/or proposed buildings on the property shall be clearly shown and shall include the dimensions to front, side, and rear property lines and distances from the proposed building to any structure on the lot.
  - d. Location of drives, public or private roadways, sidewalks, easements, and parking areas.
  - e. The location of all existing or proposed, overhead and underground utilities, water, and sewage systems.
  - f. Description of adjacent land uses.
  - g. Location of existing natural and man-made site features including wood lots, wetlands, streams, lakes, ponds, and similar environmental conditions.
  - h. A description of any change in grade or drainage system, except those changes to accommodate basement and driveway grading. All excavation and grade changes shall have been reviewed and approved by the County Drain Commissioner's office when located within 500 ft. of a watercourse (drain, creek, stream, river, pond or lake).
  - i. The location and widths of all existing and/or proposed rights-of-way and/or easements and all abutting streets and alleys.

- j. The point, area, ditch, or enclosure to which storm water is to drain, including discharge of sump pump.
- k. Any other information required by the Zoning Administrator necessary to establish compliance with this and other ordinances of Mecosta County.

## **ARTICLE V SPECIAL LAND USE REVIEW PROCEDURES AND STANDARDS**

### **SECTION 5.1 SPECIAL LAND USE REVIEW**

The Planning Commission shall have the following specific powers and duties concerning special use approvals.

- A. Statement of Intent: The procedures and standards in this Section are intended to provide a consistent and uniform method for review of proposed plans for special land uses.

In hearing and deciding upon special approvals, the Planning Commission shall base its actions on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the County into districts, within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

Proposed uses will be evaluated according to their compatibility with the nature, extent and density of the surrounding area. A special permit use must be consistent with the Mecosta County Master Plan and with the intent of the zoning district in which it is located.

Special permit uses may be permitted only in those zoning districts where they are designated by this Ordinance. They may be permitted only when specifically approved by the Planning Commission in accordance with the provisions of this Ordinance.

Prior to approval of a special use permit, the Planning Commission shall insure that the procedures and standards specified in this Article, as well as the standards established elsewhere in this Ordinance shall be satisfied.

- B. Application: The application for special land use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following:

1. The section of this Ordinance under which the special land use is sought.
2. A detailed site plan which shall include all the information required by this Ordinance in Article 4.
3. A description of the proposed use of the property.
4. Other information which the Planning Commission may reasonably deem necessary for adequate review.

The application shall be submitted by the owner of an interest in land for which special land use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

- C. Notice of Public Hearing: Upon receipt of a complete application, site plan, and attachments, if any, the County shall schedule a public hearing on the request. Not less than fifteen (15)

days before a meeting, a notice shall be published in a newspaper that circulates in the County; and such notice shall be sent by mail to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to occupants of all structures within three hundred (300) feet of the property boundary. The notice shall contain:

1. A description of the nature of the special land use request under the specific section of this Ordinance.
2. A legal description or address and/or an approximate sketch of the property which is the subject of the request.
3. A statement of when and where the public hearing will be held to consider the request.
4. A statement as to when and where comments will be received concerning the request.

- D. Planning Commission Determination: Following the public hearing, the Planning Commission shall review the application for the special land use proposal, together with the public hearing findings and reports and recommendations of the Building Official, the County Sheriff and Fire Departments, the County Engineer, and other reviewing agencies. The Planning Commission is authorized to deny, approve, or approve with conditions, requests for special land use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to approval.

Performance guarantees may be required by the Planning Commission, in accordance with Section 5.02, to insure compliance with special approval conditions.

- E. Standards for Granting Special Use Approval: Approval of a special land use proposal shall be based on the determination that the proposed use will comply with all requirements of this Ordinance, including site plan review criteria set forth in Article 4. In addition, the following standards shall be met:

1. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
2. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the County as a whole.
3. The proposed special land use shall be compatible with and in accordance with the general principles and future land use configuration of the Mecosta County Master Plan and shall promote the intent and purpose of this Ordinance.
4. The Planning Commission shall find that a need for the proposed use exists in the community at the time the special land use application is considered.
5. The proposed use shall be designed, constructed, operated and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
  - a. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
  - b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.

- c. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
  - d. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - e. The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
- 6. The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:
  - a. Proximity and access to major thoroughfares.
  - b. Estimated traffic generated by the proposed use.
  - c. Proximity and relation to intersections.
  - d. Location of and access to off-street parking.
  - e. Required vehicular turning movements.
  - f. Provision for pedestrian traffic.
- 7. The proposed special land use shall be consistent with existing and future capabilities of public services, utilities and facilities affected by the proposed use.
- 8. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
- 9. The proposed use shall be compatible with the natural environment and conserve natural resources and energy.
- F. Recording of Planning Commission Action: Each action taken with reference to a special land use proposal shall be duly recorded in the minutes of the Planning Commission. The minutes shall record a written statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed is required with any special land use decision. All records of proceedings shall be kept on file and made available to the public. The action and any conditions shall also be recorded with the County Register of Deeds.
- G. Effective Duration of Special Use Approval: Special use approvals shall run with the land and shall not be issued for specified periods, unless the use is clearly temporary or time-related in nature.
- H. Amendments to Special Land Uses: When an application is received to expand or change the use, traffic pattern, or other elements of a special land use, the application shall be subject to the same procedures followed for an original special approval of land use.

However, minor changes in the location site or character of the building and structures may be authorized by the Zoning Administrator, if required by the engineer or if other required

circumstances occur not foresee at the time the special use permit or final development plan was approved. No changes so authorized may cause a change in the use, character, or intent of the development. Any changes which are approved must be made and recorded in accordance with the procedures established for the recording of the initial special use permit or final development plan, and as otherwise specified in this Ordinance.

- I. Revocation of Special Land Use Approval: Approval of a special land use proposal and site plan may be revoked by the Planning Commission if construction is not in conformance with the approved plans, where the authorized development has essentially changed in nature, extent or character, and where construction has not commenced within one year from the date of issuance. In such a case, the Zoning Administrator shall place the special land use on the agenda of the Planning Commission for consideration, and give written notice to the applicant at least five (5) days prior to the meeting. The applicant shall be given the opportunity to present information to the Planning Commission and answer questions. The Planning Commission may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.
- J. Finality of Decisions: Decisions of the Mecosta County Planning Commission may be appealed to the Zoning Board of Appeals. Such appeals shall be made in writing within 30 days after the Planning Commission issues its decision in writing. (*amendment 09-002*)

## **SECTION 5.2 PERFORMANCE GUARANTEES**

- A. Purpose: To insure compliance with the provisions of this Ordinance and any conditions imposed by, the Planning Commission or Zoning Board of Appeals may require that a performance guarantee be deposited with the County to insure the faithful completion of improvements, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. Improvements for which the County may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, surfacing of drives, parking, and acceleration/deceleration lanes, traffic control devices, sewer or water line expansion, storm water retention areas and land reclamation activities.
- B. Scope of Requirement: The performance guarantee can apply only to those specific features and actions which the Planning Commission or Zoning Board of Appeals considers necessary to protect natural resources or the health, safety, or welfare of residents, project users, or the general public. A performance guarantee may not be required for the entire project. The guarantee is limited to those project components specifically designated by the Planning Commission or Zoning Board of Appeals.
- C. General Requirements: A performance guarantee shall be required by the Planning Commission on the applicable portion(s) of a site plan under any of the following circumstances:
  - 1. To meet the costs of improvements required to be made by the applicant to public facilities owned by the County as a condition of site plan approval.
  - 2. To ensure the completion of the common elements of site plan affecting two or more parties.
  - 3. To ensure the completion of those portions of a site plan which will not be completed by the applicant prior to a request for occupancy.

The Planning Commission or Zoning Board of Appeals may require a performance guarantee on any other specific improvement when determined by resolution that the guarantee is



necessary to protect the natural resources of the County or the health, safety, or welfare of residents, project users, or the general public.

**D. General Conditions:**

1. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. No building permit or related County permit shall be issued unless the Zoning Administrator is satisfied that the guarantee is in full compliance with this Article.
2. The performance guarantee shall be in the form of:
  - a. A cash deposit or deposit by certified check drawn on a bank authorized to do business in the State of Michigan, or
  - b. An irrevocable letter of credit issued on behalf of the County by a bank authorized to do business in the State of Michigan, or
  - c. A surety bond in a form and manner acceptable to the County Attorney. The costs of the review of a surety bond by the County Attorney shall be paid by the applicant as part of the issuance of a permit.
3. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements associated with a project for which site plan approval or zoning variance has been obtained. Accordingly, the applicant shall provide an itemized listing of estimated costs and a proposed time schedule to complete all of the improvements determined to require a performance guarantee. The Zoning Administrator shall review the submitted costs for reasonableness and shall determine an accurate amount for the performance guarantee. In determining the amount, the Zoning Administrator may consider signed contracts or sub-contracts supplied by the applicant or may secure or require that the applicant secure a sealed statement from a licensed architect or engineer verifying the estimates.
4. Cash funds or a certified check made payable to the County shall be deposited by the County into an interest bearing account in a financial institution with which the County regularly conducts business.
5. In the case of a guarantee exceeding \$2000, and by request of the applicant, the guarantee may be released to the applicant in an amount proportional to the work completed on various elements, provided that a minimum of ten percent (10%) shall be retained on each element until the satisfactory completion of the entire project. The amount of work completed shall be based upon an inspection and determination by the Zoning Administrator.
6. An amount not to exceed the actual cost of the installation of landscape materials may be retained by the County for at least one (1) year following the installation of said materials to insure proper maintenance and, if necessary, replacement. This amount shall be released to the applicant upon certification by the Zoning Administrator that all landscape materials are being maintained in good condition.
7. Prior to the acceptance of a public improvement by the County and upon the recommendation of the County Engineer, the Zoning Administrator shall require a maintenance bond for the public improvement in an amount not to exceed thirty-five (35)

percent of the total cost of the improvement and to remain in effect for a period not to exceed three (3) years.

8. The unexpended balance of a performance guarantee, including interest accrued, shall be returned to the applicant following inspections by the appropriate County officials and a positive determination by the Zoning Administrator that the required improvements have been satisfactorily completed and that all other requirements of this Article are met.

- E. Unsatisfactory Completion of Improvements: When required improvements are not installed or maintained within the time stipulated or are not completed in accordance with the standards set forth within this Ordinance or as agreed upon between the applicant and the Planning Commission or Zoning Board of Appeals, the Zoning Administrator may order the improvements completed by the County or by an independent contractor, or may order that the site be returned to its original condition.

The Zoning Administrator shall order the completion of the improvements and so notify the applicant by certified mail at least fourteen (14) calendar days prior to the undertaking of completion. During this time period, the applicant may seek an order from a court of competent jurisdiction to prevent the action by the County.

All costs incurred by the County for the completion of the improvements or the restoration of the site, including direct administrative costs, shall be assessed against the performance guarantee including any interest accrued on any funds deposited in escrow.

- F. Subdivision Improvements: This Article shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited with the County by the applicant pursuant to the Subdivision Control Act (P.A. 288 of 1967, as amended).

### **SECTION 5.3 ZONING BOARD OF APPEALS *(AMENDMENT 05-006)***

The Zoning Board of Appeals shall act on all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning districts map. The Zoning Board of Appeals shall also hear and decide appeals from any order, requirements, decision, or determination made by an administrative official or body charged with enforcement of this Ordinance; and shall hear and decide matters referred to it or upon which it is required to pass under this Ordinance. The Zoning Board of Appeals shall not have the power to alter or change zoning district classification of any property. The creation, responsibilities, and limitations of power of the Zoning Board of Appeals are further specified in Article 7 of this Ordinance.

## **ARTICLE VI NONCONFORMING USES AND STRUCTURES**

### **SECTION 6.0 INTENT**

It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed, but not to encourage their survival.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended would be prohibited, regulated, or under the terms of this or future amendments.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided work shall be diligently carried on until completion of the building involved.

### **SECTION 6.1 DEFINITIONS**

For the purposes of this Section, the following words and phrases shall have the meaning assigned to them:

- A. Effective Date. Whenever this article refers to the “effective date,” the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendments created a nonconforming situation.
- B. Nonconforming Building and Structure. A building or structure, or portion thereof, which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, that does not meet the limitations on building size, location on a lot, or other regulations for the district in which such building is located.
- C. Nonconforming Lot. A lot which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, that does not meet the minimum area or lot dimensional requirements of the district in which the lot is located.

- D. Nonconforming Use. A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.
- E. Structural Nonconformity. A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and existing buildings or lot lines does not conform to the standards of the district in which the property is located. Also sometimes referred to as dimensional nonconformity.

## **SECTION 6.2 NONCONFORMING LOTS**

Any nonconforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other restrictions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance requests from district yard requirements may be applied for through the Mecosta County Zoning Board of Appeals.

If two or more lots or combination of lots with contiguous frontages in single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lots shall be considered to be an individual parcel for the purposes of this Ordinance. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by a dwelling unit.

Upon application, the Zoning Administrator may permit the combination, in whole or in part, of nonconforming lots of record into building sites less than the size requirements established by this Ordinance, provided that the combination of lots reduces the degree of nonconformity and results in a parcel which is capable of accommodating a structure that is in conformance with the building area, setback, and side yard requirements of this Ordinance.

## **SECTION 6.3 NONCONFORMING USES OF LAND**

The lawful use of any land existing on the effective date of this Ordinance or amendment thereto, may be continued even though such use does not conform to the provisions of this Ordinance or amendments subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date or adoption or amendment of this Ordinance
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance

- C. If such nonconforming use of land, not involving a building or structure, ceases for any reason for a period of more than three-hundred sixty-five (365) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. Where non-conforming off-street parking, landscaping, signage, fences, and other similar land uses exist, those uses shall be made to conform to the terms of this Ordinance when any legal use, principal or accessory, located on the land in question is established or expanded in such a manner that would necessitate site plan review and approval in accordance with Article 4 of this Ordinance.

#### **SECTION 6.4 NONCONFORMING BUILDINGS AND STRUCTURES**

Where a lawful structure or building exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. Restrictions on Creating Nonconformities. No such building or structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.
- B. Restrictions on Movement. Should such structure be moved for any reason or for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located.
- C. Restrictions on Alteration or Modification. If a nonconforming structure or building is altered or modified so as to eliminate, remove, or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased. The Zoning Board of Appeals shall determine if a proposed alteration would decrease the degree of nonconformity.
- D. Restrictions on Replacements. Nothing in this Ordinance shall prevent the reconstruction, repair, or restoration and the continued use of any nonconforming structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this Ordinance.

Any nonconforming building which has been damaged substantially or destroyed may be repaired, rebuilt or replaced within six (6) months of such damage or destruction, provided that such repairs or rebuilding or replacement does not extend or expand the previously existing nonconforming structure.

Where pending insurance claims require an extension of time, The Zoning Administrator may grant a time extension provided that the property owner submit a certification from the insurance company attesting to the delay. Until such time as the debris from the damaged building/structure is fully removed, the premises shall be fenced and secured from pedestrian or unauthorized access.

#### **SECTION 6.5 NONCONFORMING USES OF STRUCTURES**

If a lawful use of a structure, or use of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district

under the terms of this Ordinance, the use may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. Prohibition on Enlargement of a Building Housing Nonconforming Use. No existing structure devoted to a use not permitted by this Ordinance or 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.
- B. Extension Throughout Building. Any nonconforming use may be extended through any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any additional land outside such building.
- C. Changing Use. If no structural alterations are made, any nonconforming use of a structure, or use of a structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided the Zoning Board of Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a nonconforming use is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- D. Prohibition of Re-establishment if Replaced by Conforming Use. A nonconforming use of any structure which is replaced by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- E. Discontinuance or Termination of Nonconforming Use of Structure. When a nonconforming use is discontinued or ceases to exist for twelve (12) consecutive months, the nonconforming structure or use of land shall not thereafter be used except in conformance with the regulations of the district in which it is located. Appeals for continuation of such uses shall be provided and determined by making application to the Mecosta County Zoning Board of Appeals.
- F. Repairs to Nonconforming Use. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six (6) consecutive months on ordinary repairs, improvement, or modernization, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to correct deterioration, obsolescence, depreciation and wear. Such repairs, improvements, replacement, or modernization activities shall be permitted providing the total area ( in square footage) of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Repairs begun within the required six (6) consecutive months but not completed upon the expiration of the permitted time period may be completed provided the repairs have been issued an approved, and valid building permit and the work has continued without interruption to eventual completion.
- G. Safety Repairs. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared unsafe by an official charged with protecting public safety, upon order of such official.

## **SECTION 6.6 GENERAL REQUIREMENTS**

- A. Structure and Land in Combination. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall not eliminate the nonconforming status of the land.
- B. Illegal Nonconforming Uses. Those alleged nonconforming uses which cannot be proven conclusively to have been in existence prior to the date of the enactment or amendment of this Ordinance, shall be declared illegal uses and shall be discontinued following the enactment of this subsection.

## **SECTION 6.7 CHANGE OF TENANCY OR OWNERSHIP**

There may be a change of tenancy, ownership, or management of any existing nonconforming use of land, structure, or structure and land in combination provided there is no change in the nature or character of such nonconforming use except in conformity with the provisions of this Ordinance.

## **SECTION 6.8 ACQUISITIONS OF NONCONFORMING USES**

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the County may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

## **ARTICLE VII ZONING BOARD OF APPEALS**

### **SECTION 7.1 MEMBERSHIPS**

- A. Creation of Board: A Zoning Board of Appeals is hereby created, which shall perform its duties and exercise its powers in accordance with Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
- B. Number of Members, Appointment: The board shall consist of five (5) members, all appointed by the County Board of Commissioners. The County Board of Commissioners may also appoint an alternate. The alternate may be utilized in the absence of a regular member. Appointments shall be as follows: Each member to hold office for a full three (3) year term. One (1) member shall be appointed from the membership of the County Planning Commission. The term of the board member who is appointed by the Planning Commission shall coincide with that of the member's commission term. Each member of the Board of Appeals shall be a resident of the unincorporated area of the County of Mecosta for at least one year prior to the date of this appointment, and shall be a qualified and registered elector of the County on such a day and throughout his tenure of office. Appointed members may be removed for cause by the County Board only after consideration of written charges. Any appointive vacancies in the Board of Appeals shall be filled by the County Board for the remainder of the unexpired term. (*Amendment No. 13-003*)
- C. Election of Officers: The Zoning Board of Appeals shall annually elect its own Chairman, Vice-Chairman, and Secretary. The compensation of the appointed members of the Board of Appeals shall be fixed by the County Board.
- D. Resignations: When members propose to resign, if reasonably feasible, they shall give notice of their intent in writing to the chairman or secretary, and make the date of resignation effective, in such a manner as to allow time for appointment of replacements. Failure to attend three consecutive regular meetings, or three of any seven consecutive meetings, without the recorded consent of the chairman shall be construed as resignation from the board by absence. When a member dies or resigns (including resignation by absence), the secretary shall promptly indicate to the County Board that a vacancy exists.

### **SECTION 7.2 MEETINGS OF ZONING BOARD OF APPEALS**

All meetings of the Board of Appeals shall be held at the call of the Chairman or upon written request of any two members of the Board. All hearings by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indication of such fact; and shall also keep records of its hearings and other official action.

### **SECTION 7.3 POWERS OF ZONING BOARD OF APPEALS**

The Board shall have all powers and duties granted by State law and by this Ordinance, including the following specific powers:

- A. Administrative Review: To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator, in enforcing any provision of this Ordinance.
- B. Interpretation of Zoning Ordinance Map and Text: To hear and decide in accordance with the provisions of this Ordinance requests for interpretation of the zoning map and text, and for



decisions on other special questions on which this Ordinance specifically authorizes the Board to pass. Any interpretation shall be subject to such conditions as the Board may require to preserve and promote the character of the Zoning District in question and to otherwise promote the purpose of this Ordinance.

- C. **Variances:** To authorize, upon an appeal, a variance from the strict application of the provisions of this Ordinance where existing conditions or factors would result by the strict application of this Ordinance in practical difficulties, provided that such relief may be granted without substantial detriment to the surrounding properties or the general public good and without substantially impairing the intent and purpose of this Ordinance. Following are examples of the variance power:
1. Variance from off-street parking or loading space requirements, upon finding that such variances will not result in a parking or loading space deficiency or otherwise be inconsistent with the intent of such requirements.
  2. Variance from yard and bulk regulations, including height, lot area, yard setback, floor area, and lot width regulations, where there are unique circumstances on the lot such that the lot cannot reasonably be put to a conforming use. In deciding upon such variances, the Zoning Board of Appeals shall first determine that sufficient area exists of an adequate storm water drainage, water supply, and septic system, if necessary.
  3. Variance from the site plan review requirements where the Zoning Board of Appeals finds that the requirements would cause practical difficulties or unnecessary hardship due to the unique conditions on the site.
  4. Variance made necessary by the advances of technology being put to use in new developments, but not anticipated by the provisions of this Ordinance.
- D. **Public Service or Public Utility Building Variance:** To permit the erection and use of a building or an addition to an existing building for public service or utility purposes in any permitted district to a greater height or larger area than the district requirements herein established; if the Board shall find such use, height, area, building, or structure reasonably necessary for the public convenience and service, and if an applicant demonstrates to the satisfaction of the Board that no reasonable alternative exists which would be in full compliance with this Ordinance.
- E. **Temporary Buildings and Uses:** To permit temporary buildings and temporary uses in connection with the development of land for periods not to exceed one year.
- F. **Conditions:** To impose conditions including performance guarantees in connection with any of its decisions, as the Board shall deem to be necessary and/or reasonable to minimize any possible detrimental effects that may arise from its decision and to otherwise promote the purposes of this Ordinance. In imposing any such conditions and requirements, the Board shall consider the standards set forth in Sections 5.2.

#### **SECTION 7.4 APPLICATION OF THE VARIANCE POWER**

- A. **Application:** A variance may be allowed by the Board only in cases involving practical difficulties when the evidence in the official record of an appeal supports all the following findings:

1. That the alleged practical difficulties are exceptional and peculiar to the property of the person requesting the variance, and results from conditions which do not exist generally throughout the County.
  2. That the alleged practical difficulties which will result from a failure to grant the variance include substantially more than mere inconvenience or inability to attain a higher financial return.
  3. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Ordinance, the individual practical difficulties that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.
- B. Conditions: The Board shall impose such conditions and requirements, in connection with any decision to grant a variance, as it shall deem reasonable to minimize any potential detrimental effects of its decision and to promote the purposes of this Ordinance.

### **SECTION 7.5 CONCURRING VOTE, FINDINGS OF FACT, AND LIMITATIONS**

- A. Concurring Vote: The concurring vote of three (3) members of the Board shall be necessary:
1. To reverse or modify any order, requirement, decision, or determination of any administrative official.
  2. To decide in favor of the applicant on any matter upon which the Board is required to pass under this Ordinance; or
  3. To effect any variance in the Ordinance in accordance with Section 7.4.
- B. Finding of Fact: Every decision of the Board shall be based upon finding of fact and each such finding shall be supported in the record of the proceedings of the Board.
- C. Ordinance Changes: Nothing contained herein shall be construed to empower the Board to change the terms of this Ordinance, to effect changes in the Zoning Map, or to add to the uses permitted in any Zoning District, except when specifically empowered to do so. The power to effect changes in the zoning ordinance or zoning map is reserved to the County Board in the manner provided herein.

### **SECTION 7.6 PROCEDURES FOR APPEALS TO THE BOARD**

- A. Notice of Appeal: Appeals of any nature in which Board action is sought, may be commenced by a person aggrieved, or by an officer, department, or board of the County, by filing a notice of appeal with the Zoning Administrator, accompanied by the required fee. The notice of appeal shall be signed, and shall specify the specific grounds upon which the appeal is based, the requirements from which a variance is sought, and the nature and extent of such variance.
- B. Stay of Action: An appeal shall stay all proceedings in furtherance of the action appealed from, unless a zoning enforcement officer certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed, except by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, following application, notice to the officer or body from whom the appeals is taken, and due course shown.

- C. Hearings, Public Notice: The Board shall fix a reasonable time for a hearing, not to exceed forty- five (45) days from the filing of the notice of appeal. Written notice of the hearing shall be personally delivered or mailed by first class (*Amendment No. PA02-002*) mail at least fifteen (15) days prior to the date of the hearing, to the appellant, all owners of any real property within 300 feet of the premises in question according to the last assessment role, and all occupants of dwellings within 300 feet. If a tenants name is not known, the term occupant may be used. The notice shall describe the subject appeal and indicate the date, time and purpose of the appeal hearing. At the hearing, any party may appear in person or by agent or attorney.
- D. Power to Compel Testimony: The board shall have the power to administer oaths, compel testimony, and require the production of reports, papers, files and other evidence pertinent to the matter before it.
- E. Preparation of Official Record: Following the hearing, the Board shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:
1. The relevant administrative records and the administrative orders issued relating to the appeal.
  2. The notice of appeal.
  3. Such documents, exhibits, photographs, or written reports as may be submitted to the Board for its consideration.
- F. Board Decisions: All such decisions of the Board shall be made at a public meeting by motion and seconded and by roll call vote. The motion shall be in the form of findings of fact and shall state the reasons for the findings by the board. If the grant of a special exception or variance includes conditions or safeguards, such conditions and safeguards, and the reasons therefore, shall be stated in the motion. The Board shall decide on appeal within a reasonable time.
- G. Final Record: The requisite written findings of fact, the conditions attached, and the decisions and orders of the Zoning Board of Appeals in disposing of the appeal, shall be entered into the official record for each case. Such record shall show the reasons for the determination, with a summary of the evidence introduced, and reasons for imposition of any conditions imposed.
- H. A Variance Runs with the Land: A variance shall run with the land, except that if no building permit has been obtained within one year of the effective date of the variance, the variance shall become null and void. The Board shall review any subsequent application for a variance on the applicable conditions and circumstances which exist at the time of the subsequent application.
- I. Decisions Final: The decisions of the Zoning Board of Appeals are final. However, a party aggrieved by the decision may appeal to the circuit court of Mecosta County. (amendment 09-004)
- J. Circuit court, review, duties: Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court of Mecosta County. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

1. Complies with the constitution and laws of the state.
2. Is based on proper procedure.
3. Is supported by competent material and substantial evidence on the record.
4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse or modify the decision.

An appeal from a decision of a Zoning Board of Appeals shall be filed within 30 days after the Zoning Board of Appeals issues its decision, in writing, signed by the chairperson or within 21 days after the Zoning Board of Appeals approves the minutes of its decision. The court may affirm, reverse or modify the decision of the Zoning Board of Appeals. The court may make other orders as justice requires. *(amendment 09-004)*

## **ARTICLE VIII PERMITTING, ENFORCEMENT, AND PENALTIES**

### **SECTION 8.1 ZONING PERMIT**

- A. Permit Requirement: No building or structure within Mecosta County shall hereafter be erected, moved, altered or razed, nor shall any work be started to erect, move, or razed until a zoning permit shall have been obtained from the Zoning Administrator, nor shall any use be added to an existing use nor shall any change be made in the use of any building or land without a zoning permit having been obtained from the Zoning Administrator. No such zoning permit shall be issued unless it is in conformity with the provisions of this Ordinance and all amendments hereto.
- B. Failure to Commence Construction: Unless construction is started within six (6) months after the date of issuance of a zoning permit, the zoning permit shall automatically become void and fees forfeited. The Zoning Administrator may reinstate a zoning permit that has become void for failure to commence construction without payment of further fees at his discretion as long as site plan approval, if required, has not expired.
- C. Application: The Zoning Administrator shall require that all applications for zoning permits be accompanied by the required fee and three (3) copies of the Class A site plan approved by the Planning Commission or two (2) copies of a Site Plan as required under Article 4 of this Ordinance.
- D. Issuance of Permit: Whenever the building, land and uses thereof as set forth in the application are in conformity with the provisions of this Ordinance, it shall be the duty of the Zoning Administrator to issue within fifteen (15) working days after the receipt of said application a zoning permit, and when such permit is refused, to state such refusal in writing with the reasons therefore.
- One copy of the site plan or plot plan shall be returned to the applicant by the Zoning Administrator, after the Zoning Administrator shall have marked such copy either as approved or disapproved. The remaining copy shall be retained in the office of the Zoning Administrator.
- E. Violations of Contracts: The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of private contracts, such as covenants or private agreements which may occur upon the granting of such permit.
- F. Footings: Prior to pouring concrete for any footings, the owner or authorized representative shall demonstrate to the Zoning Administrator that the footing forms are properly located on the lot and that the footing grade is set to the proper elevation, both according to the dimensions and elevations as indicated on the site plan.
- G. Completion of Work: Upon the completion of the work authorized by a zoning permit, the holder thereof shall apply for a Certificate of Compliance by notifying the Zoning Administrator who shall then make a final inspection.

### **SECTION 8.2 CERTIFICATE OF COMPLIANCE**

No land, building, structure, or part thereof shall be occupied by or for any use for which a building permit is required by this Ordinance unless and until a Certificate of Compliance shall have been issued for such new use. The following shall apply in the issuance of any certificate:

- A. Application for Certificates: Application for Certificates of Compliance shall be made in writing to the Zoning Administrator on forms furnished by the County, and such application shall be reviewed for compliance to the stipulations, regulations and requirements of this Ordinance within ten (10) working days. If such certificate is refused for any cause, the applicant shall be notified in writing of reasons for such refusal.
- B. Certificates Include Zoning: Certificates of Occupancy as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures shall also constitute Certificates of Compliance as required by this Ordinance.

No Certificate of Occupancy pursuant to the Michigan Building Code shall be issued for any building, structure or part thereof, or for the use or change of use of any building or land, which is not in accordance with all the provisions of this Zoning Ordinance.

- C. Certificates for Existing Buildings: Certificates of Compliance will be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land is in conformity with the provisions of this Ordinance.
- D. Grading Requirements: A Certificate of Compliance shall not be issued until the following requirements are complied with and are approved by the Zoning Administrator:
  - 1. Prior to the official issuance of a Certificate of Compliance, the Zoning Administrator shall inspect the site to determine if the grading is in accordance with the approved site plan or plot plan. If, in the judgment of the Zoning Administrator, there is doubt that such grading is in accordance with the plan, the Zoning Administrator shall request that a grading certificate be prepared, signed and sealed by a registered professional civil engineer, architect or land surveyor be submitted to the Zoning Administrator, in duplicate, attesting to the fact that the site has been constructed and graded in accordance with the plot plan, that permanent irons at each lot corner are in evidence, and that the drainage pattern is in accordance with the plan as approved at the time of issuance of the zoning permit.
  - 2. In lieu of a grading survey, a surety bond, letter of credit, or cash deposit in an amount set by the County Board of Commissioners may be required to insure grading and submission of such survey at a later date when a building, land or structure is otherwise suitable for occupancy, but it is that season of the year when weather conditions make completion of grading unfeasible. In such case, a temporary Certificate of Compliance may be issued and the date for completion of grading, not to exceed six (6) months from date of issuance, shall be indicated on the temporary Certificate of Compliance or its related documents.
- E. Certificates for Buildings Accessory to Dwellings: Buildings accessory to dwellings shall require a Certificates of Compliance but may be included in the Certificate of Compliance for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- F. Temporary Certificates: The Zoning Administrator may issue a temporary Certificate of Compliance for a portion of building or structure in the process of erection or alteration. The Zoning Administrator may require a performance guarantee before the issuance of a temporary Certificate of Compliance to guarantee completion.

Temporary Certificates of Compliance shall specify a date for compliance; on this date the certificate shall be deemed to have expired. No temporary Certificate of Compliance shall be effective for a period in excess of six (6) months. Failure to meet the requirements of this Section shall result in the revoking of the temporary Certificate of Compliance.

No Certificate of Compliance shall be issued unless the landscaping and paving shown on the site plan have been completed, except that the owner may furnish a performance guarantee equal to the cost of completion.

- G. Records of Certificates: A record of all certificates issued shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished upon request to any person.

### **SECTION 8.3 PLATS**

In accordance to Michigan Land Division Act, proposed plats of land hereafter to be platted into lots within the County of Mecosta shall be submitted to the Planning Commission for approval and subsequently to the County Board of Commissioners for approval.

### **SECTION 8.4 ADMINISTRATION FEES**

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance shall be collected by the Zoning Administrator at the time of application. The amount of such fees shall be established by resolution by the Mecosta County Board of Commissioners in accordance with this Ordinance and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.

### **SECTION 8.5 VIOLATIONS AND PENALTIES**

Violation of this Ordinance: Any person, partnership, limited liability company, corporation or association who creates or maintains a nuisance per se as defined in Section 8.6 or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance. Prosecution for violations of this Ordinance shall be conducted by the Mecosta County Prosecutor or his appointed agent.

- A. The Zoning Administrator, his duly authorized assistants or representatives or his deputy administrator and Sheriff's Department are hereby designated the authorized county officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- B. In addition to enforcing this Ordinance as a municipal civil infraction, the county may initiate proceedings in circuit court to abate or eliminate the nuisance per se or any other violation of this Ordinance.
- C. Other Rights or Remedies are not Affected: The rights and remedies provided in this Ordinance are cumulative and shall be deemed to be in addition to, and shall not adversely affect, any and all other rights and remedies provided by law.
- D. Rights and Remedies Preserved, No Waiver: Any failure or omission to enforce the provisions of this Ordinance, and any failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this

Ordinance or by law, and shall not constitute a waiver of nor prevent any further prosecution of violations of this Ordinance.

- E. Fines for municipal civil infraction: First offense \$100.00, second offense \$250.00  
(*Amendment No. PA02-002*).

**SECTION 8.6 PUBLIC NUISANCES**

Any building, structure, or use which is erected, altered, converted, or razed or any use of premises or land which is begun or changed subsequent to the effective date of this Ordinance and in violation of any of the provisions of this Ordinance is hereby declared to be a public nuisance. The Zoning Board of Appeals, any person designated by the County Board of Commissioners, or any aggrieved person may institute a suit in a court of law to have a nuisance abated.



## **ARTICLE IX DEFINITION OF TERMS**

### **SECTION 9.1 INTERPRETATION OF LANGUAGE**

For the purpose of this Ordinance, the following rules of interpretation shall apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for", "designed for" "intended for", "maintained for", or "occupied for".
- G. The word "person" includes an individual, a corporation, a partnership, a public utility, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or 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 that the connected items, conditions, or provisions, or events may apply singly or in any combination.
  - 3. "Either . . . or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.

### **SECTION 9.2 DEFINITIONS**

For the purpose of this Ordinance the terms and words herein are defined as follows:

**ACCESSORY USE, BUILDING OR STRUCTURE:** A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related. May also include structures on property with no primary use in residential and agricultural districts, primarily used for storage.

**ADJACENT:** See LOT, ADJACENT.

**ADULT USE:** Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini-motion

picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually-oriented entertainment. Also see Article 3.

**ADULT USE:** Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually-oriented entertainment. Also see Article 3.

**ADULT REGULATED USES OR SEXUALLY-ORIENTED BUSINESSES:** Any business or use which primarily features sexually stimulating material and/or performances, including the following uses:

A. **Adult Business Use:** “Adult business use” is specifically defined as follows:

1. **Adult Business:** means adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, massage parlors, and nude modeling studios, and any other adult use which at all times excludes minors by virtue of age and which offers or displays specified sexual activities or specified anatomical areas in any form.
2. **Adult Book Store:** means an establishment having a substantial portion (more than twenty percent (20%)) of its stock in trade in books, magazines and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes and novelty 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, which segment or section exceeds ten percent (10%) of the usable floor area of the establishment.
3. **Adult Cabaret:**
  - a. “Group A cabaret” means an establishment which features nude or semi-nude entertainers, topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, nude or semi-nude waitresses or waiters or similar entertainers, or an establishment which features live entertainment distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
  - b. “Group D cabaret” means an establishment licensed by the Michigan Liquor Control Commission, which establishment offers beer or intoxicating liquor for consumption on the premises and features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, topless waitresses or similar entertainers.
4. **Adult Model Studio:** Any place where models who display “specified anatomical areas” (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
5. **Adult Motel:** A motel wherein visual displays, graphic materials, or activities are presented which depict, describe, or relate to “specified sexual activities” or “specified anatomical areas” (as defined herein).
6. **Adult Motion Picture Arcade or Miniature-Motion Picture Theater:** Any place where motion picture machines, projectors, or other image producing devices are

maintained to show images to five (5) or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to “specified sexual activities” or “specified anatomical areas” (as defined herein).

7. **Adult Movie Theater or Adult Live Stage Performing Theater:** An enclosed building or room used for presenting motion picture films, video cassettes, cable television or any other visual media having as a dominant theme materials distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activity” or “specified anatomical areas” for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
8. **Adult Outdoor Motion Picture Theater:** A drive-in theater where a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
9. **Adult Personal Service Business:** A business having as its principal activity a person, while nude or while displaying specified anatomical areas, providing personal services for another person. Such a business includes, but is not limited to, modeling studios, body painting studios, wrestling studios and conversation parlors.

Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult personal service establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult personal service establishment:

- a. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed practical nurse practitioner, or any other similarly licensed or certified medical professionals;
- b. Establishments which offer massages performed by certified massage therapists;
- c. Gymnasiums, fitness centers and health clubs;
- d. Electrolysis treatment by a licensed operator of electrolysis equipment;
- e. Continuing instruction in martial or performing arts, or in organized athletic activities;
- f. Hospitals, nursing homes, medical clinics, or medical offices;
- g. Barber shops, beauty parlors, hair stylists and salons which offer massages by certified massage therapists; and
- h. Adult photography studios whose principal business does not include the taking of photographs of “specified anatomical areas” as defined herein.

10. **Adult Video Store:** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, storage, or on-premises viewing of films, movies, motion pictures, video cassettes, slides, or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
  11. **Sexual Paraphernalia Store:** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage, of instruments, devices, or paraphernalia designed for use related to “specified anatomical areas” or as part of, in connection with, or related to “specified sexual activities” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material, which segment or section exceeds ten (10) percent of the usable floor area of the establishment.
- B. **Special Definitions:** With respect to Adult Regulated Uses or Sexually Oriented Businesses, the following terms and phrases shall have the following meanings:
1. **Substantial Portion:** A use of activity accounting for more than twenty (20) percent of any one or more of the following: stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.
  2. **Specified Anatomical Areas:** Portions of the human body defined as follows:
    - a. Less than completely and opaquely covered:
      - a) Human genitalia and pubic region;
      - b) Buttock and anus; and
      - c) Female breast below a point immediately above the top of the areola; or
    - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
  3. **Specified Sexual Activities:** The explicit display of one or more of the following:
    - a. Human genitals in a state of sexual stimulation or arousal;
    - b. Fondling or other erotic touching of human genitalia, pubic region, buttocks, anus, or female breast;
    - c. Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral copulation, sexual intercourse, or sodomy;
    - d. Human excretory functions as part of, or as related to, any of the activities described above;
    - e. Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or related to, any of the activities described above.
  4. **Sexual Intercourse:** Includes fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any part of a person’s body, or of any object, into the genital or anal openings of another’s body.

5. **Sodomy:** *(amendment #14-009)*
  - a. Anal or oral copulation with a member of the opposite sex
  - b. Copulation with a member of the same sex
  - c. Bestiality
6. **Buttock:** Includes the anus and perineum of any person.
7. **Massage Parlor:** An establishment wherein private massage is practiced, used or made available as a principal use of the premise.
8. **Massage:** The manipulation of body muscle or tissue, by rubbing, stroking, kneading, tapping or vibrating, through the use of a physical, mechanical or other device, of the body of another for a fee.
9. **Nude Modeling Studio:** Any building, structure, premises or a part thereof used primarily as a place which offers as its principal activity the providing of models to display specified anatomical areas for artists and photographers for a fee. *(amendment #14-009)*

**AGGRIEVED PARTY:** Any person who can demonstrate that they or their property will suffer some special damages, not common to other property owners, by a decision of the Mecosta County Zoning Administrator, Planning Commission, or Zoning Board of Appeals. *(amendment 09-003)*

**Agricultural Tourism:** Business/Commercial operations (which are not typical to agricultural production) with the purpose of attracting, entertaining, actively involving, or educating tourists on an active farm. Operations may include, but are not limited to: microbrews, farm to table restaurants, how-to classes, bakeries, special event facilities, riding stables, rodeos, cider mills, bed and breakfasts, and petting farms. *(amendment #14-003)*

**AGRICULTURAL USE:** A use of any land or building used for a purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops or animal husbandry.

**ALLEY:** A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

**ALTERATIONS:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use".

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

**ANIMAL FEEDING OPERATION, CONCENTRATED (CAFO):** A lot or building or combination of contiguous lots and buildings intended for the confined feeding, breeding, raising, or holding of at least one-thousand (1,000) animal units and specifically designed as a confinement area where manure may accumulate, or where the concentration of animals is such that vegetative cover cannot be maintained within the enclosure during the months of May, June,

## ***Definition of Terms***

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July, and August. Open lots used for the feeding and rearing of poultry (poultry ranges), shall be considered animal feed lots, but pastures shall not be considered animal feedlots.

**ANIMAL HOSPITAL:** See CLINIC, VETERINARY.

**ANIMAL UNIT:** Animal units are defined as listed in the U.S. Code of Federal Regulations (CFR) 40 Section 122, Appendix A.

Animal Unit	50	250	500	750	1,000
Animal Type a	Number of Animals				
Slaughter and Feeder Cattle	50	250	500	750	1,000
Mature Dairy Cattle	35	175	350	525	700
Swine b	125	625	1,250	1,875	2,500
Sheep and Lambs	500	2,500	5,000	7,500	10,000
Horses	25	125	250	375	500
Turkeys	2,750	13,750	27,500	41,250	55,000
Laying Hens or	5,000	25,000	50,000	75,000	100,000

Note:

- a. All other animal classes or types not in this table, but defined in the Michigan Right to Farm Act or described in Michigan Commission of Agriculture Policy, are to be calculated as one thousand pounds live weight equals one animal unit.
- b. Weighing over 55 pounds.

**ANIMAL WASTE AREA:** A holding area, underground container, above-ground tank, or lagoon used or intended to be used for the storage or treatment of animal manure and other waste products associated with livestock operations.

**ANIMAL, WILD OR EXOTIC:** Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law. Wild or exotic animals shall include, but shall not be limited to the following: alligator and crocodile (family); deer (family); opossum (family); badger, wild dog or wolf (family); primate excluding human (family); bear, raccoon, ferret, skunk, wild cat (family); lemur, spider (poisonous); coyote; lizard; snake and other reptile (poisonous); weasel (family); wild boar or swine (family); and marten.

**ANTENNA:** Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

**APARTMENT:** See DWELLING, MULTIPLE FAMILY.

**APPEAL:** An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

**ARCADE:** Any establishment which provided on its premises four or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest, or amusement of any description, not including musical devices.

**ARCHITECTURAL FEATURES:** Architectural features of a building including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

**AREA, GROSS SITE:** The total area of a planned unit development site including flood plains and water bodies.

**ASSISTED LIVING FACILITIES:** An alternative on the continuum of care for people, normally seniors, for whom independent living is no longer appropriate but who do not need the 24-hour medical care provided by a nursing home. Assistance may include the administration or supervision of medication or personal care services provided by trained staff personnel.  
(*amendment #10-006*)

**ATTACHED WIRELESS COMMUNICATION FACILITY:** Any wireless communication facility affixed to an existing structure, such as a building, tower, water tank, utility pole, etc., used to receive and transmit federal or state licensed communications services via duly licensed segments of the radio frequency spectrum. This definition shall not include support structures.

**AUTOMOBILE:** Unless specifically indicated otherwise, "automobile" shall mean any vehicle including cars, trucks, vans, motorcycles, and the like.

**AUTOMOBILE FILLING STATION:** A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use. Parking requirements for filling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

**AUTOMOBILE REPAIR:** Major or minor repair of automobiles defined as follows:

- A. **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

**AUTOMOBILE REPAIR GARAGE:** A premise primarily used for general automobile repair wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rustproofing; and other related activities.

**AUTOMOBILE SERVICE STATION:** A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises overnight. Automotive Service Station shall not include bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rustproofing, high-volume of motor vehicle washing or sales of new or used cars, trucks, motorcycles or other land vehicles.

**AUTOMOBILE WASH ESTABLISHMENT:** An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

**BAKERIES:** A place where bread, pastries, etc. are baked or sold. (amendment #10-006)

**BANK:** An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange. Shall not include drive-in teller windows, booths, and accessory buildings, automated teller machines, etc. designed to serve customers either in their automobiles or on foot.

**BAR, COCKTAIL LOUNGE, OR NIGHT CLUB:** An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where more than thirty (30) percent of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customer, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and similar mechanical amusement devices.

**BASEMENT:** That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

**BED-N-BREAKFAST INN:** A dwelling in which overnight accommodations are provided or offered for transient guests for compensation by the owners and residents therein, said facilities may include meal service and shall extend for not more than twenty-one (21) consecutive days.

**BEDROOM:** Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms.

**BERM:** See LANDSCAPING.

**BIKEWAY:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the County or other agency with right-of-way jurisdiction, as applicable.

**BILLBOARD:** Any non-accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located.

**BLOCK:** The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the County, or any other barrier to the continuity of development.

**BOARD OF APPEALS:** The Mecosta County Zoning Board of Appeals, created pursuant to the provisions of Michigan Public Act 184 of 1943, as amended.

**BOARDING HOUSE:** A building, other than a hotel, where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for three or more persons. A rooming house shall be deemed a boarding house for the purposes of this Ordinance.

**BOAT:** Boats, floats, rafts, and the attached normal equipment to transport the same on highways.

**BREW PUB:** A restaurant or tavern (as defined in this Ordinance), licensed by the State of Michigan to produce and manufacture not more than five-thousand (5,000) barrels of beer per calendar year in Michigan, and sell at retail on the premises the beer produced and manufactured for consumption on or off the premises in the manner provided for in MCLA 436.31b and 426.31c.



**BUFFER ZONE:** A strip of land often required between certain zoning districts or land uses reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

**BUILDABLE AREA:** The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

**BUILDING:** Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall include tents, awnings, carports, manufactured homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed primarily for shelter. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

**BUILDING, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only window and normal entrance or exit doors.

**BUILDING, DETACHED:** A principal building surrounded by open space.

**BUILDING HEIGHT:** The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and 75 percent of the height of an "A" frame. Chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

**BUILDING LINE:** A line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot. For the purposes of this Ordinance, a minimum building line is the same as a required setback line.

**BUILDING, PRINCIPAL:** A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "BUILDING, ACCESSORY" and "USE, PRINCIPAL".)

**BUILDING, TEMPORARY:** A building which is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on construction site.

**BUMPER BLOCKS:** Concrete or cement cast units located at one end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles.

**CAMPER, PICK-UP:** A recreational unit designed to be mounted on a pick-up or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.

**CAMPGROUNDS:** Any parcel or tract of land wherein sites are offered for the use of the public, either free of charge, or for a fee, for the establishment of temporary living quarters for the occupation of tents, travel trailers, truck campers, portable recreational camping structures or mini cabins (180 sq. ft. or less), or other similar recreational units. (*amendment #07-004*)

**CANOPY TREE:** A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purposes of a canopy tree are to shade to adjacent ground areas and to enhance aesthetics.

**CARETAKER LIVING QUARTERS:** An independent residential dwelling unit designed for and occupied by one or two persons, of which at least one is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

**CARGO/SHIPPING/STORAGE CONTAINER (hereinafter referred to as Cargo Container):** Any metal or primarily metal container designed or constructed to ship, store, or handle bulk goods or items, of which appears substantially similar to such containers in appearance. Such containers include reusable steel boxes, freight containers, and bulk shipping containers; originally, a standardized reusable vessel that was designed for and used in the parking, shipping, movement, transportation or storage of freight, articles of goods or commodities; generally capable of being mounted or moved on a rail car, truck trailer or loaded on a ship.

**CEMETERY:** Land used for the burial of the dead including columbariums, crematories, and mausoleums.

**CERTIFICATE OF COMPLIANCE:** A certificate issued by the Zoning Administrator, after final inspections, indicating his or her opinion that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a zoning permit has been issued shall be occupied until the Building Official has, after final inspections, issued a Certificate of Occupancy (CO). The issuance of a Certificate of Compliance shall in no case be construed as waiving any provisions of this Ordinance.

**CERTIFICATE OF OCCUPANCY:** A certificate issued by the Building Official after final inspections, indicating his or her opinion that all the ordinance, laws, regulations and codes are being complied with and met. No building or structure or use for which permits has been issued shall be occupied until the Building Official has, after final inspection, issued a Certificate of Occupancy (CO). The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of the applicable ordinances, laws, regulations and codes.

**CHILD CARE CENTER:** An establishment where three (3) or more children, not related by bonds of consanguinity or fostership to the family residing on the same premises, are cared for in return for remuneration. Such child care centers need not have a resident family on the premises. A child care center may also sometimes be referred to as a NURSERY, DAY NURSERY, DAY CARE CENTER, or NURSERY SCHOOL.

**CHURCH OR SYNAGOGUES:** Any structure wherein persons regularly assemble for religious activity.

**CLINIC, VETERINARY:** A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

**CLINIC, MEDICAL:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

**CLUB, HEALTH:** Any establishment providing physical culture or health services, including health clubs, racquetball or tennis clubs, reducing salons, or tanning salons.

**CLUB OR LODGE, PRIVATE:** A non-profit association of persons who are bonafide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this Ordinance.

**CLUSTER HOUSING:** A group of buildings and especially dwellings built close together to form relatively compact units on a sizeable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

**COLLECTOR STREET:** See STREET, COLLECTOR.

**COMMERCIAL CENTER, PLANNED:** A business development under single ownership consisting of two (2) or more retail or service outlets characterized by common architecture, a pedestrian and vehicle circulation system, and off-street parking.

**COMMERCIAL, VEHICLE:** A truck or motor vehicle with cab and chassis and with a stake, rack, body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle which has a commercial license plate and is designed to accommodate a body length in excess of 9 feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors and trailers.

**COMMISSION:** The Planning Commission of the County of Mecosta.

**COMPREHENSIVE PLAN:** See MASTER PLAN.

**CONDITIONAL USE:** A use which is subject to conditional special approval by the County Planning Commission. A conditional use may be granted only when there is a specific provision in this Ordinance. A conditional use is not considered to be a nonconforming use and is distinct from a Special Land Use. See SPECIAL LAND USE.

**CONDOMINIUM:** A system of separate ownership of individual units and/or multiple unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

**Condominium Act:** State of Michigan Public Act 59 of 1978, as amended.

**Condominium, Contractible:** A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the County of Mecosta Code of Ordinances.

**Condominium, Conversion:** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

**Condominium - Convertible Area:** A unit or portion of the common elements of the condominium project referred in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**Condominium, Expandable:** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**Condominium - General Common Element:** The common elements other than the limited common elements intended for the common use of all of the co-owners.

**Condominium - Limited Common Element:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**Condominium - Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site

## ***Definition of Terms***

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condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

**Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, as amended.

**Condominium Unit, Site (i.e., Site Condominium Lot):** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium site shall become a limited common element. The term “condominium unit site” shall be equivalent to the term “lot” for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage, and maximum floor area ratio.

**CONDOMINIUM UNIT:** The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

**CONVALESCENT HOME:** See NURSING HOME.

**CO-OP (COOPERATIVE) HOUSING:** A multiple dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

**CORNER LOT:** See LOT, CORNER.

**COUNTY:** The County of Mecosta, Michigan

**COUNTY BOARD:** The Mecosta County Board of Commissioners

**CUL-DE-SAC:** See STREET, CUL-DE-SAC.

**CURB CUT:** The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

**DAY CARE CENTER:** See CHILD CARE CENTER.

**DECK:** An open, horizontal platform attached to the front, rear or side of the principal residential structure and that is used for outdoor leisure or recreational activities.. The platform shall not be enclosed by a roof or walls or other screened or framed enclosure.

**DENSITY:** The number of dwelling units situated on or to be developed per net or gross acre of land.

**DETENTION FACILITY:** A facility designed for holding storm water runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle.

**DEVELOPMENT:** The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**DEVELOPMENT PLAN:** A scaled drawing which shows the existing conditions, the location and dimensions of improvements upon a parcel of land, including but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems, and drainage facilities, environmental features, and other elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

**DISTRIBUTION CENTER:** A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business. See also WAREHOUSE.

**DISTRICT:** A portion of County of Mecosta within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**DRAINAGE WAYS AND STREAMS:** Existing permanent or intermittent watercourses.

**DRIVE-IN THEATER:** An open-air theater constructed and operated at an established location, without cover or roof, displaying motion pictures for the general public who view the screen or stage while seated in a vehicle. The term "drive-in theater" as used herein shall include the entire premises upon which such theater is constructed and operated, including parking areas and all other facilities accessory to such business.

**DRIVE-THRU SERVICE:** The term "Drive-Thru Service" shall mean a business activity so developed that its retail or service character provides a driveway approach and waiting spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

**DRIVEWAY:** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**DUMPSTER:** A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

**DWELLING:** A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance.

**DWELLING, PREMANUFACTURED:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is constructed in a factory in accordance with the Michigan Residential Building Code.
- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities.
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.

Also refer to DWELLING, ONE FAMILY OR SINGLE FAMILY.

**DWELLING, MANUFACTURED (MOBILE HOME):** A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended and United States Department of Housing and Urban Development (HUD), being 24 CFR 3280, amended.

Also see DWELLING, ONE FAMILY OR SINGLE FAMILY.

**DWELLING, MULTIPLE-FAMILY:** A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwellings units include the following:

## ***Definition of Terms***

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- A. **Apartment:** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit:** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

**DWELLING, ONE-FAMILY OR SINGLE-FAMILY:** A detached building containing not more than one dwelling unit designed for residential use, provided:

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. It has a minimum width across front, side and rear elevations of 22 feet in R-1, R-2, R-4, 14 feet in AG, AF, R-3, LR and complies in all respects with the Michigan Residential Building Code, further provided that the provisions of this Section shall not have the effect of making one family dwellings, which exist as of the effective date of this Ordinance, non-conforming.
- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan Residential Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one- family dwellings. In the event that the dwelling is a manufactured home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required.
- D. In the event that a dwelling is a manufactured home as defined herein, each manufactured home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of thirty (30) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single family

"dwelling" as well as the character, design and appearance of one or more residential dwellings to the extent of less than twenty (20) percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the County.

- G. The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required herein.
- H. The dwelling complies with all pertinent building and fire codes. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. The foregoing standard shall not apply to a manufactured home located in a licensed manufactured home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the County pertaining to such parks.
- J. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

**DWELLING, TWO-FAMILY OR DUPLEX:** A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

**DWELLING UNIT:** One or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one family for living, cooking, and sleeping purposes.

**DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE:** A Townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as row houses.

**DUPLEX:** See DWELLING, TWO FAMILY OR DUPLEX.

**EARTH-SHELTERED HOME:** A complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

**EASEMENT:** Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements which give public or private utility companies the right to use land for the construction and maintenance of utilities.

**EFFICIENCY UNIT:** See DWELLING, MULTIPLE FAMILY.

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

**ESSENTIAL SERVICES:** The term "essential services" shall mean the erection, construction, alteration or maintenance by public or quasi-public utilities or municipal departments or County-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection,

## ***Definition of Terms***

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communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities. Telecommunication towers or facilities, alternative tower structures, and wireless communication facilities antenna are specifically excluded from this definition.

**EXCAVATION:** The removal or movement of soil, sand, stone, gravel, or fill dirt, except for common household gardening, farming, and general ground care.

**FAMILY:**

- A. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one dwelling unit, whose relationship is of a continuing, non-transient, domestic character, and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

**FAMILY DAY CARE HOME:** See STATE LICENSED RESIDENTIAL FACILITY.

**FARM:** All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this Ordinance, farms shall not include establishments for keeping or raising fur-bearing animals, riding or boarding stables, commercial dog kennels, game fish hatcheries, piggeries, stockyards, or gravel or sand pits, unless such establishments are combined with other bona fide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto and for the use and consumption by persons residing on the premises.

A farm permitted by this Ordinance is not intended nor implied to permit trucking, equipment and/or sales, contractor yards or any other activities other than those incidental to the bona fide farm.

**FARM TO TABLE RESTAURANT:** Restaurant which 50% of its menu comes from food grown on affiliated farm or nearby farm, with the purpose of providing fresh local food.  
(*amendment #14-003*)

**FENCE:** A fence is a permanent or temporary unroofed barrier enclosing or bordering a plot of land or portion thereof composed of suitable manmade materials for the purpose of preventing or controlling entrance, confining within, or marking a boundary.

**FILL, FILLING:** The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.



**FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source.

- A. **Flood Hazard Area:** Land which on the basis of available flood plain information is subject to a one (1) percent or greater chance of flooding in any given year.
- B. **Flood Hazard Boundary Map (FHBM):** An official map of the community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazard areas have been designated as Zone A.
- C. **Flood Insurance Rate Map (FIRM):** An official map of a community, issued by the Federal Insurance Administration, which has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- D. **Flood Insurance Study:** The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway Map, and the water surface elevation of the base flood.
- E. **Flooding, Area of Shallow:** A designated AO Zone on the Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.
- F. **Flooding, Ordinary High Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil, and the vegetation.
- G. **Flood Plain:** Any land area susceptible to being inundated by water from any source (See Flood.)
- H. **Floodway:** The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.

**FLOOR AREA:** The area of a building defined as follows:

- A. **Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- B. **Floor Area, Net:** See FLOOR AREA, USABLE RESIDENTIAL and FLOOR AREA, USABLE NONRESIDENTIAL.
- C. **Floor Area, Usable Residential:** The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. **Floor Area, Usable Nonresidential:** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which issued for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area.

**FOSTER CARE HOME:** See STATE LICENSED RESIDENTIAL FACILITY.

**FOSTER CHILD:** A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

**FRATERNAL ORGANIZATION:** See CLUB.

**FRONT LOT LINE:** See LOT LINE, FRONT.

**FRONT YARD:** See YARD, FRONT.

**GARAGE, PRIVATE:** An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

**GARAGE, PUBLIC:** Any building or premise, other than junkyard, where more than one motor vehicle is stored for compensation.

**GARAGE, REPAIR:** See AUTOMOBILE REPAIR GARAGE.

**GARDEN CENTER:** An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies, landscaping materials, and equipment.

**GAS STATION:** See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

**GLARE:** The effect produced by brightness or a source of illumination sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**GOLF COURSE OR COUNTRY CLUB:** The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

**GOLF DRIVING RANGE:** An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

**GRADE:** A grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure. See Illustration on Page 2-13.

**GREENBELT:** See LANDSCAPING.

**GROUP HOMES:** See STATE LICENSED RESIDENTIAL FACILITY.

**GYM OR GYMNASIUM:** A room or building equipped for gymnastics, exercise, or sport.

**HAZARDOUS SUBSTANCES:** Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

**HEIGHT, BUILDING:** See BUILDING HEIGHT.

**HIGHWAY:** See STREET.

**HOBBY KENNEL:** Any lot or premises where dogs, cats or household animals are bred or sold or provided to the public with or without cost, limited to two litters (or similar brood, progeny, off-spring, or birth of young) per year. See Section 3.15 for more requirements.

**HOME OCCUPATION:** Any occupation conducted within a dwelling unit and carried on by the inhabitants thereof. Home occupations may provide for one (1) full-time non-resident employee. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby. Home occupations are further regulated in Section 3.19 of this Ordinance.

**HOSPITAL:** An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

**HOSPITAL, VETERINARY:** See CLINIC, VETERINARY.

**HOTEL:** A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty (50) percent of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels customarily provide services such as desk service, maid service, laundering of linens, etc.

**INGRESS AND EGRESS:** As used in this Ordinance, "ingress and egress" generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway which allows pedestrians to enter or leave a parcel of property, a building, or another location.

**JUNK:** Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

**JUNKYARD:** An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

**KENNEL:** Any lot or premises on which dogs, cats or other household animals, six months of age or older, are kept either permanently or temporarily for the purposes of breeding, boarding, training, sale or transfer, not including Hobby Kennels.

**LABORATORY:** A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

**LAKE:** Any body of water, natural or artificial, defined as "inland lake or stream" in the Inland lake and Stream Act of 1972, P.A. 1972, No. 346, as amended.

**LAND DIVISION:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in one (1) or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967 as amended.

**LANDFILL:** Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

**LANDSCAPING:** The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping- related terms are defined as follows:

- A. **Berm:** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this Ordinance.
- B. **Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance.
- C. **Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
- D. **Hedge:** A row of closely planted shrubs or low-growing trees which form a continuous visual screen, boundary, or fence.
- E. **Screen or screening:** A wall, wood fence, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.
- F. **Shrub:** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.
- G. **Sod:** A piece from the surface of grassland containing the grass support soil, and the healthy roots, extracted with the intention of replanting in another area for the purpose of establishing lawn areas. Sod is grown on mineral soil (commonly referred to as "topsoil") or peat, and must be a minimum of two (2) years old. The grasses permitted for use in sod for landscaped lawns should be a blend that reflects the current standards in the industry and has been demonstrated to prosper under local conditions.
- H. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well- defined central stem which normally grows to a mature height of fifteen (15) feet or more in Mecosta County, Michigan.
  - 1. **Deciduous Tree:** A variety of tree that has foliage that is shed at the end of the growing season.
  - 2. **Evergreen Tree:** A variety of tree that has foliage that persists and remains green throughout the year.
- I. **Ornamental Tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about twenty-five (25) feet or less.
- J. **Shade Tree:** For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of fifteen (15) feet or greater and has a trunk with at least five (5) feet of clear stem at maturity.

## ***Definition of Terms***

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**LIVESTOCK:** Horses, cattle, sheep, goats, and other domestic animals normally kept or raised on a farm.

**LOADING SPACE, OFF-STREET:** An off-street space of definite size and dimensions in accordance with the requirements of this Ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**LOCAL STREET:** See STREET, LOCAL OR MINOR.

**LOT (OR ZONING LOT OR PARCEL):** For the purposes of enforcing this Ordinance, a lot is defined as a piece of land under one ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A. A single Lot of Record.
- B. A portion of a Lot of Record.
- C. A combination of complete Lots of Record, or portion thereof.
- D. A piece of land described by metes and bounds.

**LOT, ADJACENT:** Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

**LOT AREA, NET:** The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

**LOT AREA, GROSS:** The net lot area plus one-half (½) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

**LOT, CONTIGUOUS:** Lots adjoining each other.

**LOT, CORNER:** A lot of which at least two adjacent sides abut their full length upon a street, provided that such two sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

**LOT COVERAGE:** The part or percent of the lot that is occupied by buildings or structures.

**LOT DEPTH:** The horizontal distance between the front street line and rear lot line, measured along the median between the side lot lines.

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

**LOT, INTERIOR:** Any lot other than a corner lot with only one (1) lot line fronting on a street.

## ***Definition of Terms***

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**LOT, LAKE:** A lot having any frontage directly upon a lake, natural or man- made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.

**LOT LINES:** The lines bounding a lot as follows:

- A. **Front Lot Line:** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit.
- B. **Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.
- C. **Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**LOT OF RECORD:** A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Mecosta County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Mecosta County Register of Deeds.

**LOT WIDTH:** The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines.

**LOT SPLIT AND CONSOLIDATION:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Mecosta County Register of Deeds and/or the County Treasurer. The division of lots shall take place in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended and the Mecosta County Subdivision Regulations Ordinance.

**MAIN ACCESS DRIVE:** Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

**MAJOR STREET OR THOROUGHFARE:** See STREET, MAJOR.

**MANUFACTURED HOME:** See DWELLING, MANUFACTURED.

**MANUFACTURED HOME PARK (MOBILE HOME PARK):** A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home, subject to conditions set forth in Public Act 96 of 1987 as amended and Manufactured Home Commission.

**MANUFACTURED HOME LOT:** An area within a mobile home park which is designated for the exclusive use of the occupants of a specific mobile home.

**MASSAGE THERAPIST (CERTIFIED):** An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organizations.

**MASTER PLAN:** The master plan is a document which is prepared under the guidance the Mecosta County Planning Commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the County.

**MICROBREWERY:** A brewer licensed by the State of Michigan which produces and manufactures in total, less than thirty-thousand (30,000) barrels of beer per year, and who may sell at the licensed brewery premises the beer produced and manufactured to consumers for consumption on or off the licensed brewery premises. In determining the thirty-thousand (30,000) barrel threshold, all brands and labels of a brewer whether brewed in this state or outside this state, shall be combined and all facilities for the production and manufacture of beer that are owned or controlled by the person(s) shall be treated as a single facility.

**MINOR STREET:** See STREET, LOCAL OR MINOR.

**MOBILE HOME:** See DWELLING, MANUFACTURED HOME.

**MOTEL:** A series of attached, semi-detached, or detached rental units which may or may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty (50) percent plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

**MOTOR HOME:** A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging.

**MUNICIPALITY:** The word "municipality" shall mean the County of Mecosta, Michigan.

**NATURAL FEATURES:** Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

**NONCONFORMING BUILDING:** A building or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this Ordinance pertaining to buildings in the zoning district in which it is located.

**NONCONFORMING LOT:** A lot which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this Ordinance pertaining to lots in the zoning district in which it is located.

**NONCONFORMING USE:** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

**NON-CONFORMITY:** Any structure, lot, or use of any lot, land or structure, which does not conform at the time of adoption of this Ordinance or any amendment thereto, to the regulations for the district in which it is located.

**NUISANCE:** Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endanger life and health.

**NURSERY, DAY NURSERY, or NURSERY SCHOOL:** See CHILD CARE CENTER.

**NURSERY, PLANT MATERIAL:** A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see OPEN AIR BUSINESS and ROADSIDE STAND.

**NURSING HOME, CONVALESCENT HOME, or REST HOME:** A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

**OCCUPANCY, CHANGE OF:** The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

**OCCUPIED:** Used in any way at the time in question.

**OFF-STREET PARKING SPACE:** See PARKING SPACE and PARKING LOT, OFF-STREET.

**OPEN AIR BUSINESS:** Any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

- A. Retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B. Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.
- C. Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D. Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.

**OPEN FRONT STORE:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

**OPEN SPACE:** That part of a zoning lot, including courts and/or yards, which is open and unobstructed from its lowest level to the sky, and is accessible to all residents upon the zoning lot.

**OPEN SPACE, COMMON:** An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners, and occupants, and generally owned and maintained in common by them, often through a home owners or property owner's association.

**OPEN SPACE, PUBLIC:** Any primarily undeveloped land intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

**OPEN STORAGE:** Any outdoor storage of building materials, sand, gravel, stone, lumber, equipment, or other supplies.

**OUTLOT:** A parcel of land which must be designated on a recorded plat as an outlot before it may be legally considered as such.

**PARCEL:** See LOT.



**PARKING LOT, OFF-STREET:** An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

**PARKING SPACE:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

**PARTY WALL:** A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one building from another and that is in joint use by each building.

**PERSON:** An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

**PERFORMANCE STANDARD:** A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

**PREMANUFACTURED HOME:** See DWELLING, PREMANUFACTURED HOME

**PET:** A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

**PLANNED UNIT DEVELOPMENT:** A planned unit development may include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this Ordinance using innovative and effective planning approaches.

**PLANNING COMMISSION:** The Mecosta County Planning Commission created pursuant to the provisions of Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**PLAT:** A map of a subdivision of land.

**POULTRY:** Any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

**PORCH:** An exterior appendage to a building which has a separate roof or a roof integral with the building which forms a covered approach to a doorway or vestibule.

- A. **Porch, Enclosed:** A porch separated from the outside by an all-weather partition or a partition which renders the area inside the partition habitable.
- B. **Porch, Open:** A porch not separated from the outside by either an all-weather partition or a partition rendering the area inside the partition habitable.

**PRINCIPAL USE:** See USE, PRINCIPAL.

**PRIVATE STREET OR ROAD:** See STREET.

**PROPERTY LINE:** The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also LOT LINE.

**PUBLIC NOTICE:** A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable State law.

**PUBLIC UTILITY:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

**REAR LOT LINE:** See LOT LINE, REAR.

**RECREATION ESTABLISHMENT, INDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

**RECREATION ESTABLISHMENT, OUTDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusements, or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

**RECREATIONAL LAND:** Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

**RECREATIONAL VEHICLE:** A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, or trailer which is designed for private recreational or travel use and which is further defined as:

- A. **Travel Trailer:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
- B. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C. **Motor Home (Trailer Coach):** a self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one (1) or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.
- D. **Folding Tent Trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.
- E. **Boats and Boat Trailers:** Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. **Other Recreational Equipment:** Snowmobiles, all terrain vehicles, special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

**REFUSE:** The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone,

## *Definition of Terms*

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broken concrete, fly ash, sashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

**RESTAURANT:** A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- A. **Restaurant, Carry-Out:** A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- B. **Restaurant, Drive-In:** A drive-in restaurant is a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C. **Restaurant, Drive-Through:** A drive-through restaurant is a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- D. **Restaurant, Fast-Food:** A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- E. **Restaurant, Standard:** A standard restaurant is a restaurant whose method of operation involves either:
  - 1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or
  - 2. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- F. **Bar/Lounge:** A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If an establishment includes a bar or lounge and a separate dining facility, the establishment shall be considered a bar/lounge if more than fifty (50) percent of the usable floor area of the entire establishment is used for the bar/lounge.

**RIGHT-OF-WAY:** A right-of-way as defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

**ROADSIDE STAND:** A temporary or permanent building primarily operated for the purpose of seasonally selling agricultural products.

**ROOM:** For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**ROOMING HOUSE:** See BOARDING HOUSE.

**SATELLITE ANTENNA:** An accessory structure which at its widest dimension is in excess of 36 inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

**SAWMILL (Agricultural)-** A facility for the primary processing of forest products in an agricultural zoning district, provided that such facility is found to not seriously interfere with accepted farming practices, employs three or fewer persons (including the property owner), where product is milled or planed in a bulk manner for private or small scale commercial purposes either outdoors or in an enclosed building and where it is found to be compatible with nearby agricultural and rural residential uses.

**SAWMILL (Industrial)-** A facility for the primary processing of forest products grown off-site and milled or planed in a bulk manner for commercial purposes; in a facility located in an industrial zoning district; where more than three persons are employed; where the processing takes place in an enclosed building, and where the finished product is shipped for retail or wholesale trade.

**SCHOOL, CHARTER (Public School Academy):** A public school and a school district, subject to the leadership and general supervision of the state board over all public education. A charter school or public school academy is authorized by the executive action of authorizing board which may be the board of a school district, an intermediate school board, or the board of a community college or a state public university. A charter school shall not be organized by a church or other religious organization.

**SCHOOL, HOME:** A school which enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

**SCHOOL, NONPUBLIC:** A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC:** A public elementary or secondary educational entity or agency that has as its primary mission, the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SCREEN, OBSCURING:** A visual barrier between adjacent area or uses consisting of structures, such as a wall or fence, or living plant material.

**SETBACK:** The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The **MINIMUM REQUIRED SETBACK** is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of **YARD**).

**SETBACK, PARKING LOT:** The minimum horizontal distance between the street right-of-way or property line and the near edge of the parking lot, excluding necessary and/or approved driveways, frontage roads, and landscaping areas.

**SIDE LOT LINE:** See LOT LINE, SIDE.

**SIDEWALK:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the County or other agency with right-of-way jurisdiction, as applicable.

**SIGN:** Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designed to be visible from outside any building or structure in which, upon which, or attached to which it may be located. Various types of signs and sign-related terms are defined in Section 3.43 of this Ordinance.

**SITE PLAN:** A plan showing all salient features of a proposed development, as required in Article IV, so that it may be evaluated to determine whether it meets the provisions of this Ordinance.

**SPECIAL EVENT:** An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

**SPECIAL LAND USE:** Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district or districts. After due consideration of the impact on each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such special land uses may be permitted following review and recommendation by the Planning Commission and approval or conditional approval by the County Board, subject to the terms of this Ordinance. (See Article V)

**STABLE, PRIVATE:** A private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

**STABLE, PUBLIC:** A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

**STATE LICENSED RESIDENTIAL FACILITY:** Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

A. **Adult Foster Care Facility:** A governmental or nongovernmental establishment having as its principle function the receiving of adults, 18 years of age or older, for foster care in accordance with Public Act 218 of 1974, as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Social Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. The following four (4) types of Adult Foster Care Homes are provided for by these rules:

1. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

2. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
  3. **Adult Foster Care Large Group Home:** An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
  4. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than 20 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
- B. **Foster Family Home:** A private residence that houses four (4) or fewer foster children, up to age 19, under constant child care and supervision. Under Public Act 116 of 1973, a Foster Family Home does not require local zoning approval before being licensed by the Department of Social Services.
- C. **Foster Family Group Home:** A private residence that houses five (5) or six (6) foster children, up to age 19, under constant care and supervision. Under Public Act 116 of 1973, a Foster Family Group Home requires local zoning approval before being licensed by the Department of Social Services.

**STATE EQUALIZED VALUATION:** The value shown on the assessment roll as equalized through the process of State and County equalization.

**STORAGE:** The depositing of material, products for sale or use, vehicles, or other items for a period greater than 24 hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

**STREET:** A public or private street, road or thoroughfare intended primarily to provide vehicular circulation and access to abutting property. Various types of streets are defined as follows:

- A. **Collector Street:** A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.
- B. **Cul-De-Sac:** A street that terminates in a vehicular turnaround.
- C. **Local or Minor Street:** A street whose sole function is to provide access to abutting properties.
- D. **Major Street:** A street that carries high volumes of traffic and serves as a main avenue through or around the County. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this Ordinance, major streets shall include those streets designated as "county primary", "county local" or "major street."
- E. **Private Street or Road:** A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the village, county, state or federal Government.
- F. **Public Street or Road:** A street or road, the right-of-way and improvements of which have been accepted for maintenance by the village, county, state or federal government.

**STREET LINE:** A dividing line between the street and a lot, also known as the right-of-way line.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

**STRUCTURE, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, or girders, or any change in the width or number of exits, or any substantial change in the roof.

**SUBDIVISION PLAT:** The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended, and the Mecosta County Subdivision Regulations.

**SWIMMING POOL:** Shall mean any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

**TEMPORARY AGRICULTURAL TOURISM:** small business operation in agricultural areas which operates up to three months. Operations may include but are not limited to: haunted houses, corn mazes and sleigh rides. (*amendment #14-003*)

**TEMPORARY USE OR BUILDING:** See BUILDING, TEMPORARY or USE, TEMPORARY.

**THEATER:** An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building. Also see DRIVE-IN THEATER.

**TOWNHOUSE:** See DWELLING UNIT, SINGLE FAMILY ATTACHED or TOWNHOUSE.

**TOXIC OR HAZARDOUS WASTE:** Waste or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. an increase in mortality, or
- B. an increase in serious irreversible illness, or
- C. serious incapacitating, but reversible illness, or
- D. substantial, present, or potential hazard to human health or the environment.

**TRAILER:** See RECREATIONAL VEHICLE; DWELLING, MOBILE HOME; and UTILITY TRAILER.

**TRANSITION:** The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

**TRUCK TERMINAL:** A structure to which goods, are delivered for immediate distribution to other parts of the County or to be amalgamated for delivery in larger units to other areas; or for distribution or amalgamation involving transfer to other modes of transportation.

**USE:** The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

**USE, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**USE, CONDITIONAL:** See CONDITIONAL USE.

**USE, PERMITTED:** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL:** The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

**USE, SPECIAL LAND:** See SPECIAL LAND USE.

**USE, TEMPORARY:** Shall mean a use permitted to exist during a specified period of time under conditions and procedures as provided in this Ordinance.

**UTILITY ROOM:** A utility room is a room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

**UTILITY TRAILER:** A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

**WINERY:** A state licensed facility where agricultural fruit production is maintained; juice is processed into wine; stored in bulk; packaged, and sold at retail or wholesale to the public with or without the use of a wine tasting facility. The site and buildings are used principally for the production of wine and wine related beverages. (*amendment #11-005*)

**VARIANCE:** A modification of the literal provisions of the Zoning Ordinance in accordance with the provisions herein in, cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three elements are present in the case.

A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance.

**VEHICLE, COMMERCIAL:** Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of six-thousand-five-hundred (6,500) pounds. Any commercially licensed vehicle which does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles:

- A. **Semi-trailer:** A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. Semi-trailer shall include trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures, any of which above units exceed twelve (12) feet in height.



- B. **Truck Tractor:** A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers and similar units, and which is not customarily operated without an attached trailer.
- C. **Other Commercial Vehicles:** Any truck or motor vehicle with a cab and chassis with a stake, rack, dump body, wrecker body, tanker body, or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. Commercial vehicles do not include motor homes or recreational vehicles, but does include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, and similar vehicles

**VETERINARY HOSPITAL:** See CLINIC, VETERINARY.

**WALL, OBSCURING:** Shall mean a masonry structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**WALL, PARAPET:** An extension of a building wall above the roof which may serve to screen roof mounted mechanical equipment.

**WALL, RETAINING:** A permanent solid barrier of brick, stone, or other opaque material intended to enclose an area. For the purpose of this Ordinance, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. Moreover, all retaining walls shall be constructed and/or painted, tinted, or colored in one color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted, or designed thereon.

**WAREHOUSE:** A building used for short and/or long term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing. See also DISTRIBUTION CENTER.

**WAREHOUSE, MINIATURE OR SELF-STORAGE:** A building or group of buildings in a controlled access and /or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customers goods or wares.

**WASTE RECEPTACLE STATION:** Any exterior space which is not a principal use for containers, structures, or other receptacles intended for temporary storage of solid waste materials.

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

**WETLAND, REGULATED:** Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 451, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river, or a stream;
- B. Not contiguous to an inland lake, pond, river, or stream, and more than five (5) acres in size, or

- C. Not contiguous to an inland lake, pond, river, or stream and five (5) acres or less in size if the Michigan Department of Natural Resources determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

**WHOLESALE SALES:** On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

**WIRELESS COMMUNICATION FACILITY:** All facilities, structural, attached, or accessory, related to the use of the radio frequency spectrum for the purposes of transmitting or receiving radio signals and includes, radio and television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included are facilities for: citizen band radio, short wave radio, amateur radio, television reception antennae, satellite dishes, and governmental facilities which are subject to state and federal law or regulations that preempt municipal authority. Wireless communication facilities shall be specifically excluded from the definition of “essential services.”

**WIRELESS COMMUNICATION FACILITY (Co-location)-** The location by two (2) or more wireless communications providers, public authorities or other duly authorized parties of wireless communications facilities on a common structure in a manner that reduces the overall need for additional or multiple freestanding single use communications facilities and/or support structures within Mecosta County.

**WIRELESS COMMUNICATION SUPPORT STRUCTURE (Tower) -** Any structure used to support attached wireless communication facilities, or other antennae or facilities, including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, or other similar structures which support wireless communication facilities.

**YARD:** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The Minimum Required Setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this Ordinance.

- A. **Yard, Front:** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. **Yard, Rear:** A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- C. **Yard, Side:** A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

## ARTICLE X ZONING ADMINISTRATION

### SECTION 10.1 RESPONSIBILITIES

Administrative responsibilities are vested in the following County entities:

- A. County Board of Commissioners
- B. Planning Commission
- C. Zoning Board of Appeals
- D. Zoning Administrator, his duly authorized assistants or representatives or his deputy administrator.

The purpose of this Article is to set forth the scope of authority of these entities.

### SECTION 10.2 COUNTY BOARD OF COMMISSIONERS

The County Board of Commissioners shall have the following responsibilities and authority pursuant to this Ordinance.

- A. **Adoption of Zoning Ordinance and Amendments.** In accordance with the intent and purposes expressed in the Preamble to this Ordinance, and pursuant to the authority conferred by Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, the County Board of Commissioners shall have the authority to adopt this Ordinance, any amendments to this Ordinance which have been previously considered by the Planning Commission or at a hearing, or as decreed by a court of competent jurisdiction.
- B. **Setting of Fees.** The County Board of Commissioners shall, by resolution, have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance.
- C. **Approval of Planning Commission Members.** In accordance with Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, members of the Planning Commission shall be appointed by the County Board of Commissioners.

### SECTION 10.3 COUNTY PLANNING COMMISSION

- A. **Creation.** The County Planning Commission is created pursuant to Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, the Municipal Planning Act. The Planning Commission shall have all the powers and duties provided for zoning boards created pursuant to Michigan Public Act 207 of 1921, as amended.
- B. **Jurisdiction.** The Planning Commission shall discharge the following duties pursuant to this Ordinance:
  - 1. **Formulation of Zoning Ordinance and Amendments.** The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the County Board of Commissioners.

2. Site Plan Review. The Planning Commission shall be responsible for review of applications for site plan approval in accordance with Article 4. As provided for in Article 4, the Planning Commission shall be responsible for making a determination to grant approval, approval subject to revisions, or denial of submitted site plans.
3. Special Land Use Review. The Planning Commission shall be responsible for holding hearings and review of all applications for special land use approval in accordance with Article 5 of this Ordinance to grant approval, approval subject to revisions, or denial of approval of a submitted special land use application.
4. Planned Unit Development Review. The Planning Commission shall be responsible for holding hearings and review of all applications for planned development in accordance with Article 5. The Planning Commission shall be responsible for granting approval, approval with conditions, or denial of a Planned Unit Development proposal.
5. Formulation of a Basic Plan. The Planning Commission shall be responsible for formulation and adoption of a basic plan (i.e., the Mecosta County Master Plan) as a guide for the development of the County, in accordance with Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
6. Review of Public Works. In accordance with Public Act 110 of 2006, as amended, whenever the Planning Commission shall have adopted a master plan for the County or of one or more major sections or districts thereof; no street, street widening, square, park, or other public way, ground, or open space, or public building or structure, shall be constructed or authorized in the County or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the commission. In case of disapproval, the commission shall communicate its reasons to the County Board, which shall have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership. The failure of the commission to act within 60 days after the date of an official submission of a public works proposal to the commission shall be deemed approval.
7. Review of Plats. Whenever the Planning Commission shall have adopted a master plan relating to the major street system of the territory within the County or part thereof, and shall have filed a certified copy of such plan in the office of the Register of Deeds of Mecosta County, then no plat of a subdivision of land within the County or part thereof shall be filed or recorded until it shall have been approved by the Planning Commission and such approval entered in writing on the plat by the chairman or secretary of the commission.
8. Review of Matters Referred by the County Board of Commissioners. The Planning Commission shall be responsible for review of matters relating to land development referred to it by the County Board of Commissioners. The Planning Commission shall recommend appropriate regulations and action on such matters.
9. Publicity and Education. The Planning Commission shall have the power to promote public interest in and understanding of the master plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education. The Planning Commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and

other organizations, and with citizens with relation to the protecting or carrying out the plan.

#### **SECTION 10.4 ZONING BOARD OF APPEALS**

The Zoning Board of Appeals shall act on all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning districts map. The Zoning Board of Appeals shall also hear and decide appeals from any order, requirements, decision, or determination made by an administrative official or body charged with enforcement of this Ordinance; and shall hear and decide matters referred to it or upon which it is required to pass under this Ordinance. The Zoning Board of Appeals shall not have the power to alter or change zoning district classification of any property. The creation responsibilities, and limitations of power of the Zoning Board of Appeals are further specified in Article 7 of this Ordinance.

#### **SECTION 10.5 ZONING ADMINISTRATOR**

The provisions of this Ordinance shall be administered by a Zoning Administrator who shall be appointed by the County Board of Commissioners for such term and subject to such conditions as may be so stated. He shall hold office at the pleasure of the Board, and receive such compensation as shall be determined by the Board. The Board may also appoint a deputy administrator under such term, and such compensations as the Board may deem desirable, to work under and assist the Zoning Administrator in the discharge of the duties of the office.

- A. The Zoning Administrator shall administer this Ordinance, and in furtherance thereto:
1. Issue all Zoning Certificates and insure compliance with the Zoning Ordinance before issuing a building permit and maintain records thereof.
  2. Conduct inspection of all buildings and structures, and the use of all lands subject to the provisions of this Ordinance to determine compliance.
  3. Maintain permanent and correct records of this Ordinance including but not limited to Maps, Amendments, Special Use Permits, Variances and Appeals.
  4. Provide and maintain a public information relative to all matters arising out of the administration of the Ordinance.
  5. Investigate all applications for Variances and Special Use Permits and report his findings to the Planning Commission or Zoning Board of Appeals.
  6. Initiate appropriate action to prevent, restrain, correct or abate any illegal act or violation of this Ordinance.
- B. Conformance with this Ordinance: It shall be unlawful for the Zoning Administrator or his duly authorized assistants or representatives or deputy administrator, to approve any plans or issue any zoning permits or certificates of compliance until he has inspected such plans in detail and found them to conform with this Ordinance.

## **ARTICLE XI AMENDMENTS TO THE ZONING ORDINANCE**

### **SECTION 11.1 STATEMENT OF INTENT**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the County, this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the County generally, to rezone an area, to extend the boundary of an existing District or to change the regulations and restrictions thereof. Such amendment to this Ordinance may be initiated by any person, firm, or corporation by filing an application with the Zoning Administrator; by motion of the County Board of Commissioners; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure.

### **SECTION 11.2 AMENDMENT PROCEDURE**

- A. **Application.** Applications for amendments to this Ordinance shall be filed with the Zoning Administrator on an appropriate form provided by the County and accompanied by the required fee. All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
  2. The nature and effect of the proposed amendment.
  3. If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area effected, the present zoning classification of the land, the names and addresses of the owners of all land and the legal descriptions of their land within the area to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.
  4. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
  5. The changed or changing conditions in the area or in the municipality that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
  6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.
- B. **Receipt of Application.** The Zoning Administrator, upon receipt of an application to amend the Ordinance, shall review the application for completeness and refer same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the proposed amendment and hold a public hearing in accordance to Subsection (c) below.
- C. **Public Hearing.** Where a public hearing is required in the administration of this Ordinance, the County Planning Commission and Zoning Board of Appeals shall provide the following required notice:

1. **Amendments.** A notice shall be published in a newspaper of general circulation in the county, not less than fifteen (15) before the hearing. Also, not less than 15 days notice of the time and place of the hearing shall also be given by mail to each electric, gas, pipeline, and telephone public utility company that registers its name and mailing address with the county zoning commission for the purpose of receiving the notice of public hearing, and to each railroad within the district or zone affected. The notices shall include the places and times at which the tentative text and maps of the zoning ordinance may be examined. The county zoning commission shall maintain a file of each affidavit of mailing for each mailing made under this Section. If an individual property, or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of the property in question not less than 15 days prior to the hearing.
2. **Special Use Permits, Zoning Board of Appeals Hearings, and Rezoning Applications.** A notice shall be published in a county newspaper of general circulation, such notice to be given not less than fifteen (15) days prior to the public hearing. In addition to the above, the County shall give a written notice of the public hearing to the owner(s) of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all dwellings within three hundred (300) feet. The notice shall state the time, place, date, and purpose of the hearing. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be mailed or delivered not less than fifteen (15) days before the hearing.
- D. **Planning Commission Recommendation.** Following the public hearing, the Planning Commission shall prepare a report and its recommendations regarding the proposed amendment, and transfer such to the County Board of Commissioners.
- E. **County Board of Commissioners Action.** After the Planning Commission has held a Public Hearing and has made a written report to the County Board of Commissioners indicating their recommendation on the proposed amendment, the County Board of Commissioners may adopt the proposed amendment, decline to adopt the proposed amendment, or may adopt it in whole, part, or with or without additional changes. The Board may also hold a public hearing on the proposed amendment or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings. Newspaper notice of a public hearing by the County Board of Commissioners shall be given pursuant to the requirements of Public Act 110 of 2006, as amended.
- F. **Recording of Decision.** Following the adoption of an amendment by the County Board of Commissioners, such ordinance or amendment, shall be published in a county newspaper of general circulation. The County Clerk shall maintain a copy of the approved amendment in the office of the Clerk for public use. An amendment shall become effective 7 days after publication of the notice of adoption as required under MCL 125.211a. (*amendment 05-007*)

The notice of adoption shall include the following information:

1. A summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
2. The effective date of the Ordinance; and

3. The place and time where a copy of the Ordinance may be purchased or inspected.

G. **Re-submittal and Reconsideration** No petition for an amendment, which has been disapproved by the County Board of Commissioners, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the County Board of Commissioners after learning of new and significant facts or conditions which might result in favorable action upon re-submittal. Re-submittal shall follow the same procedure as outlined in this Section.

### **SECTION 11.3 PROTESTS**

In case a protest against a proposed amendment is presented, duly signed by the owners, or part owners, of 20 percent of the land proposed to be altered, or by the owners of at least 20 percent of the area of land included within the area extending outward 100 feet from any point on the boundary of the land included in the proposed change, such amendment shall not be passed except by the 3/4 vote of the County Board of Commissioners.

If a parcel of land is owned by the entireties, by joint tenants, by tenants in common or by legal and equitable owners, any one of such owners may sign the protest for the parcel so owned. In determining the land area upon which percentages shall be calculated, there shall be included, all the property in a common ownership as a single unit. For purposes of this subsection, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

### **SECTION 11.4 FEES**

Neither the Planning Commission nor the Zoning Board of Appeals shall consider any matter until there is first paid a fee as established by resolution by the Mecosta County Board of Commissioners, except that such fees shall not be required where the County or any official body is petitioning for a zoning action.

### **SECTION 11.5 COMPREHENSIVE REVIEW OF ORDINANCE**

The Planning Commission shall, from time to time, at intervals of not more than five (5) years, examine the provisions of this Ordinance and the location of district boundary lines and shall submit a report to the County Board of Commissioners recommending changes and amendments, if any, which are desirable in the interest of public health, safety, and general welfare.



## **ARTICLE XII INTERPRETATION, SEVERABILITY, VESTED RIGHT & ENACTMENT**

### **SECTION 12.1 INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of this Ordinance, such provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare.

It is not the intent of this Ordinance to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, which are not in conflict with the provisions of this Ordinance.

It is not the intent of this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such other ordinance or agreements, the provisions of this Ordinance shall control.

### **SECTION 12.2 SEVERABILITY CLAUSE**

This Ordinance and the various articles, section and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is determined unconstitutional or invalid for any reason, by a court, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable.

### **SECTION 12.3 RULE OF CONSTRUCTION**

The rule that a penalty statute is to be strictly construed shall not apply to this Ordinance or any of the provisions thereof. All provisions of this Ordinance shall be construed according to the fair import of their terms, to promote justice and to affect the objects of this Ordinance.

### **SECTION 12.4 VESTED RIGHT**

It is hereby expressly declared that nothing in this Ordinance be held or construed to give or grant to any person, firm or corporation any vested right, license, privilege or permit.

### **SECTION 12.5 REPEAL OF EXISTING ZONING REGULATIONS**

The Mecosta County Ordinance Relating to Zoning and Land Use as adopted by the Mecosta County Board of Commissioners and first becoming effective June 2, 1983 and all amendments to said Ordinance are hereby repealed. In the event that this Ordinance is repealed or declared entirely unconstitutional or invalid, then the provisions of the 1983 Mecosta County Ordinance Relating to Zoning and Land Use, as amended shall be reinstated.

### **SECTION 12.6 SAVINGS CLAUSE**

This Ordinance shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability penalty, forfeiture or punishment incurred prior to the time this

Ordinance takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this Ordinance had not been adopted. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings are or were commenced. All prosecution, or other actions pending at the effective date of this Ordinance and all prosecution, or other proceedings, instituted after the effective date of this Ordinance, or offenses or acts committed prior to and in accordance with the provisions of the Ordinance in force at the time of such offense.

**SECTION 12.7 ADOPTION CHRONOLOGY**

- A. Public Hearing by Planning Commission;
- B. Resolution of Planning Commission to Approve Zoning Ordinance Text and Map and Recommend County Board Adoption;
- C. Resolution of the County Board of Commissioners to Adopt Zoning Ordinance Text and Map:

**SECTION 12.8 EFFECTIVE DATE**

Made and passed by the Board of Commissioners of the County of Mecosta, Michigan on this

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and effective 7 days after publication of the notice of adoption as required under MCL 125.3401. We hereby certify that the foregoing Ordinance is a true copy of an Ordinance as enacted by the Mecosta County Board of Commissioners on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Board Chairman

\_\_\_\_\_  
County Clerk

I, \_\_\_\_\_, Clerk of the County of Mecosta, hereby certify that notice of adoption of the foregoing ordinance was published pursuant to Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, in a newspaper of general circulation in Mecosta County on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.