



# VILLAGE OF FOWLER CLINTON COUNTY, MICHIGAN

# *ZONING ORDINANCE*



**With Amendments through August, 2012**



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# Chapter 1

## PURPOSE, TITLE, AND SCOPE

### SECTION 1.1 PURPOSE

Pursuant to the authority granted to the Village of Fowler by the Public Acts of the State of Michigan, this Ordinance is established for the following purposes:

- A. To promote and protect the public health, safety, and general welfare;
- B. To protect the character and the stability of the open space, residential, and nonresidential areas within the Village of Fowler and promote the orderly and beneficial development of such areas;
- C. To provide adequate light, air, privacy and convenience of access to property;
- D. To regulate the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
- E. To lessen and avoid congestion on the public highways and streets;
- F. To promote healthful surroundings for family life in residential areas;
- G. To protect the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, and other health and safety hazards;
- H. To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- I. To enhance the social and economic stability of the Village;
- J. To enhance the aesthetic desirability of the environment throughout the Village; and
- K. To conserve the expenditure of funds for public improvements and services.

### SECTION 1.2 SCOPE

- A. Interpretation and Application: In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or Ordinance.

- B. However, where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.
- C. Vested Rights: Except as otherwise noted in this Ordinance, nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

### **SECTION 1.3 TITLE**

This Ordinance shall be known and may be cited as the "Village of Fowler Zoning Ordinance."

### **SECTION 1.4 APPLICATION OF REGULATIONS**

The right to continue a land use or activity or construct a building or structure which is either permitted by this Ordinance or established as a legal nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to Section 3.20, Nonconforming Uses, Structures, and Lots, of this Ordinance.

### **SECTION 1.5 SCOPE OF PROVISIONS**

- A. Except as otherwise provided for in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of, or addition to, an existing use, building and structure occurring after the effective date of this Ordinance, shall be subject to this Ordinance.
- B. Uses Permitted by Right
- C. All land development specifically listed under the heading "Uses Permitted by Right" shall be allowed when determined to be in accordance with all provisions of this Ordinance and all other applicable laws, regulations or ordinances having jurisdiction over the proposed use of land. Where not specifically permitted, uses are prohibited, unless construed to be similar to a use as expressly determined by the Board of Zoning Appeals.
- D. Uses Permitted by Special Land Use

All land development specifically listed under the heading of "Uses Permitted by Special Land Use" in the district description contained in this Ordinance shall be conducted in accordance with the requirements of Chapter 12 of this Ordinance.

## E. Uses Not Specifically Mentioned

1. Any use of land or development activity not specifically mentioned in this Ordinance shall be classified by the Zoning Board of Appeals for classification.
2. If the Zoning Board of Appeals finds that the use is not similar in character to uses listed in the Ordinance they shall so find. It is advisable that the Zoning Board of Appeals recommend to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include the proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Use Permitted by Right or a Use Permitted by Special Land Use.

## F. Uses Existing Before Ordinance

Any use of the land or development activity existing on the effective date of this Ordinance may continue subject to the provisions contained in Section 3.20, Nonconforming Uses, Structures, and Lots, of this Ordinance.



## **Chapter 2 DEFINITIONS AND INTERPRETATIONS**

### **SECTION 2.1 INTENT AND PURPOSE**

The purpose of this Chapter is to establish rules for interpreting the text of this Ordinance, to define certain words and terms, and to provide for the interpretation of this Ordinance by adoption of a technical dictionary. Certain words and terms which may not appear in this Chapter, but which have special application may be defined in other Chapters to which they apply.

### **SECTION 2.2 USE OF WORDS AND TERMS**

- A. If the meaning of this Ordinance is unclear in a particular circumstance, then the Zoning Board of Appeals shall interpret the provision to carry out the intent of the Ordinance if such can be comprehended from other provisions of the Ordinance or law.
- B. All words and phrases shall be interpreted and understood according to the common preferred usage of the language; but technical words and phrases and such as may have acquired a peculiar and appropriate meaning in the law shall be interpreted and understood according to such peculiar and appropriate meaning.
- C. Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural number shall include the singular, unless the context clearly indicates and stipulates the contrary.
- D. The words "person," "proprietor," "property owner," and "operator" shall include any recognized form of legal entity.
- E. The words "property," "lot," "parcel," "real estate," "premises," "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
- F. The word "road" shall also mean "highway," "street," "alley," "drive," "cul-de-sac," "land" or other public thoroughfare.
- G. The word "building" shall include the word "structure."
- H. The words "used" or "occupied" when applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."
- I. The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.

- J. The word "may" shall be interpreted as permissive or discretionary.
- K. Unless the context clearly indicates the contrary, the words noted below shall be interpreted as follows.
1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
  2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- L. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the Village or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

### SECTION 2.3 DEFINITIONS "A"

**Accessory Structure:** A building or structure located on the same lot as the principal building or structure, the use of which is incidental or secondary to the principal building or use.

**Accessory Use:** A use of land or of a building or portion thereof which is customarily and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or building and located on the same lot with the principal use.

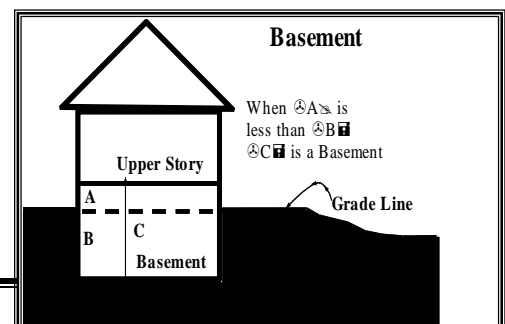
**Addition:** A structure added to the existing structure after the completion of the existing structure which extends or increases the floor area, or height of a building or structure.

**Adult Uses:** The term shall include adult bookstore, adult motion picture theater, adult motel, adult nightclub, and massage parlor. These terms and terms related to these definitions, as noted, shall have the following indicated meanings:

- A. **Adult Bookstore.** An establishment having as a significant portion of its stock in trade books, films, magazines, electronic media and other periodicals which are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
- B. **Adult Motion Picture Theater.** Means of adult entertainment depicting, describing or portraying through a motion picture media form "Sexual Conduct" or "Specified Anatomical Areas" in a setting within an adult use that is generally characterized by one of the following:
1. A coin or token-operated machine where someone may view a motion picture film, video, cassette, compact disc or other similar media form which depicts, describes, or portrays "Sexual Conduct" or "Specified Anatomical Areas."

2. A booth, or other such constructed area, where an individual may, for the payment of a fee, view sexually explicit material depicting, describing or portraying "Sexual Conduct" or "Specified Anatomical Areas."
- C. **Adult Motel.** A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
  - D. **Adult Merchandise Store or Adult Business.** A commercial establishment having a substantial or significant portion of its stock and trade in books, magazines, periodicals, photographs, videotapes, video cassettes, laser cassettes, films, electronic media or other visual representations which depict, describe, or portray "Sexual Conduct" or "Specified Anatomical Areas."
  - E. **Adult Personal Service Business.** A business having, as its principal activity, a person while nude, or while displaying "Sexual Conduct" or "Specified Anatomical Areas." as defined herein, providing personal service for another person.
  - F. **Adult Nightclub.** A theater or other establishment, which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas."
  - G. **Massage Parlor.** Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of, or in connection with, "Sexual Conduct," or where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas."
  - H. **Sexual Conduct**
    1. Human genitals in a state of sexual stimulation or arousal;
    2. Acts of human masturbation, sexual intercourse or sodomy;
    3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
  - I. **Specified Anatomical Areas**
    1. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola;
    2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Alteration:** Any modification, remodeling, change or rearrangement in the structural or supporting members such as bearing walls, columns, or girders, as well as any change in the doors or windows which affect the means of egress which is undertaken without adding to the floor area height or physical size of the building or structure.



**SECTION 2.4            DEFINITIONS "B"**

**Basement or Cellar:** That portion of a building which is partly below and partly above grade, and having at least one-half(½) its height below grade.

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

**Board of Zoning Appeals, or Zoning Board of Appeals, or Board, or Board of Appeals:** The Zoning Board of Appeals of the Village of Fowler.

**Building :** A combination of material, whether portable or fixed forming a structure having a roof supported by columns or by walls affording a facility or shelter for use or occupancy by persons, animals, or property.

**Buildable Area:** The space remaining within a lot after the minimum setback and open space requirements of this Ordinance have been met.

**Building Official:** The officer or other designated authority charged with the administration and enforcement of the Village Building Code, or their duly authorized representative.

**SECTION 2.5            DEFINITIONS "C"**

**Caliper:** The diameter of a tree trunk.

**Change of Use:** A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance.

**Cluster Development:** A development where structures are arranged in closely related groups, units are typically of the same type or design character, and built at higher densities in certain areas of a site while preserving the natural features in others on the same site.

**Commercial Use:** An activity carried out as a use of property for financial gain including but not limited to retail sales, repair service, business offices, food service, entertainment, and brokerages, related to purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement enterprise or garage/basement sales operating more than twelve (12) days during any one (1) twelve (12) month period.

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



**Condominium:** The ownership of a dwelling unit and the space enclosed by the description thereof as contained in the master deed for the complex or project, established in conformance with the provisions of the Condominium Act 59 of 1978, as amended, MCLA 559.101 et seq.

**Construction:** The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, and grading of a lot.

**Convalescent Home:** A long-term recuperative care facility providing room and board and supervised personal care by facility staff on a twenty-four (24) hour basis for the aged, the infirm or persons recovering from illness. An unlicensed extended care facility or chronic care facility providing twenty-four (24) hour nursing care shall mean the same.

**Cul-De-Sac:** A street having one (1) terminus open for vehicular or pedestrian access and the other terminated by a vehicular turnaround.

## SECTION 2.6 DEFINITIONS "D"

**Day Care, Commercial:** A facility, other than a private residence, receiving minor children for care for periods of less than 24 hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

**Day Care, Family:** A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.

**Day Care, Group:** A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

**Decibel:** The unit of measurement used to express the magnitude of sound pressure and sound intensity. [AMENDED 3/14/11]

**Demolition:** The purposeful razing or destruction, or disassembly of a building or structure.

**Density:** The number of dwelling units per unit of lot area (see Lot Area).

**Density, Gross:** "Gross Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot.

**Density, Net:** "Net Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot, excluding any lot area owned by a governmental entity, used as a private street or occupied by a non-residential use.

**Development:** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; and mining, excavation, land filling or land disturbance, and any extension of an existing use of land.

**Development Permit:** A permit issued to a person proposing a development which is regulated by this Ordinance, which indicates compliance with the Ordinance and thereby granting permission to proceed.

**Disturbed Land:** A parcel of land which is graded, filled, excavated or mined or stripped of its natural vegetative cover or grass for a purpose other than agriculture land use.

**Driveway:** A private path of travel over which a vehicle may be driven which provides access from one (1) or two (2) parcels of land to a public or private road.

**District, Zoning:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations.

**Dwelling:** A detached building or portion thereof designed or used exclusively as the home, residence or sleeping place of one (1) or more persons, not including accessory buildings or structures, either attached or detached or travel trailers, motor homes, automobiles, tents, or other portable buildings as defined as a recreation vehicle. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions relative to dwellings.

**Dwelling, Two-Family:** A building designed exclusively to occupancy by two (2) families independently of each other and having separate cooking and bath facilities for each.

**Dwelling, Multiple-Family:** A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independatley of each other.

**Dwelling, Single-Family:** A detached building, designed for or occupied exclusively by one (1) family.

## SECTION 2.7 DEFINITIONS "E"

**Essential Public Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems. These may include, but are not necessarily limited to, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or

commissions or for the public health or general welfare. Essential public services shall not include buildings other than such buildings as are primarily enclosures or shelters of the above essential public service equipment. Cellular telephone or communications towers as defined by this Chapter shall not be considered essential services.

**Excavation:** Removal or recovery by any means whatsoever of soil, rock, sand, gravel, peat, muck, marrow, shale, limestone, clay or other mineral or organic substances, other than vegetation, from water or land, whether exposed or submerged.

**Existing Use:** The use of a parcel of land or a structure at the time of the enactment of this Ordinance.

**SECTION 2.8 DEFINITIONS "F"**

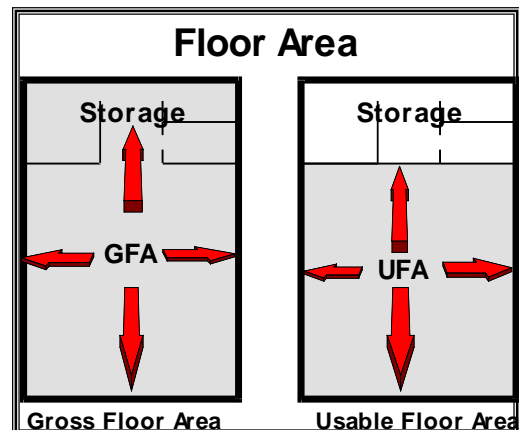
**Family:**

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children, a caretaker, and not more than one (1) addition unrelated person who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit not to exceed the maximum number of individuals reasonably permitted by the health, safety and welfare guidelines of the Zoning Ordinance, Health Regulations, and the Building Code, whose relationship is of a continuing, nontransient 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, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature. [AMENDED 8/11/08]

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters; or the unusual and rapid accumulation of runoff of surface waters from any source.

**Floor Area:** The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.

**Floor Area, Gross (GFA):** The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs,



closets/ storage rooms, thickness of walls, columns, or other features.

**Floor Area, Usable (UFA):** "Usable floor area" means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers.

- A. Such floor area which is used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or the storage or processing of merchandise shall be excluded from this computation of "usable floor area."
- B. Measurement of usable floor area shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.

**Frontage:** The total length of the front lot line being the horizontal distance between the side lot lines, as measured at the front setback line.

## SECTION 2.9 DEFINITIONS "G"

**GFA:** See Floor Area, Gross.

**Government and Community Service Facility:** A facility under the operational control of a governmental unit, specifically a township, city, village, county, state, the United States Government, or some combination of governmental units, including, but not limited to, offices, libraries, museums, Village hall, post offices, courts, and civic centers; excluding vehicle and equipment maintenance, garages and correctional institutions.

**Grade:** The average elevation of the finished surface of ground after the development, filling, or excavation of a parcel of land.

**Greenhouse:** A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. (See Nursery.)

**Ground Cover:** Grasses or other plants grown to keep soil from being blown or washed away.

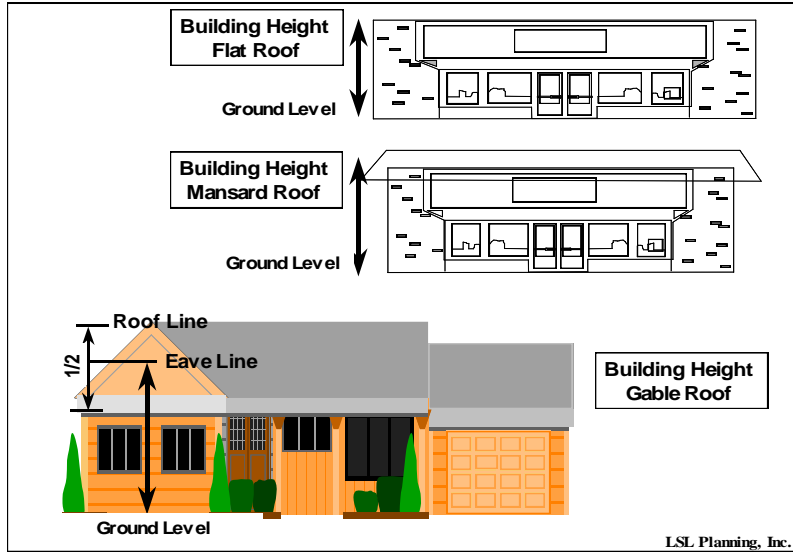
**Group Day Care Center:** See Day Care, Group.

## SECTION 2.10 DEFINITIONS "H"

**Heavy Equipment:** Commercial vehicles with a Gross Vehicle Weight in excess of ten thousand (10,000) pounds, and excavating, grading, road building, earth moving, demolition, loading and similar equipment.

**Height:** The vertical distance of a structure measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the structure, or as otherwise provided in this Ordinance.

**Height, Building:** The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.



**Home Occupation:** An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation. A home occupation may also be known commonly as cottage industry, home based business, home marketing network, or home interactive distribution or marketing, but shall not be construed to include day care or state licensed residential care facilities.

**Human Occupancy:** A building or portion thereof primarily used or intended to be used for individuals to congregate for any purpose and which is equipped with means of egress, light, and ventilation facilities in accordance with the Michigan Construction Code, excluding a building or portion thereof incidental to the use for agricultural purposes of the land on which the building is located, or a building used exclusively for the purpose of storage in which there are no employees or occupants.

**SECTION 2.11 DEFINITIONS "I"**

(Reserved for Future Use)

**SECTION 2.12 DEFINITIONS "J"**

(Reserved for Future Use.)

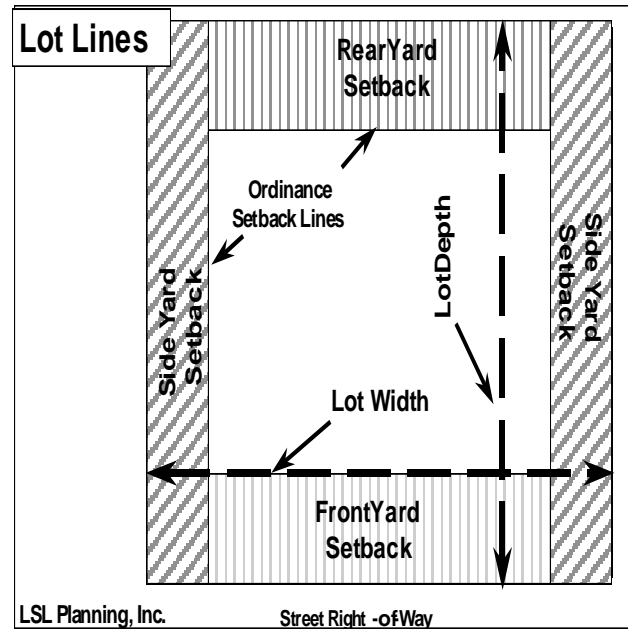
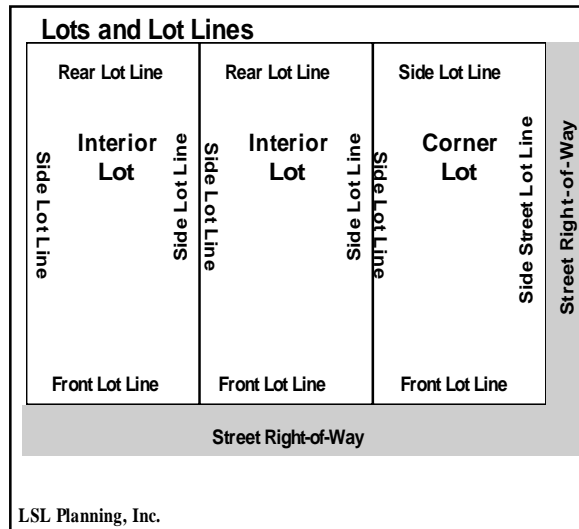
**SECTION 2.13 DEFINITIONS "K"**

**Kennel, commercial:** Any lot or premises on which more than four (4) domesticated household pets (but not including wild, vicious or exotic animals) six (6) months or order are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, or pets, subject to the regulation set forth herein regulating private and commercial kennels.

**SECTION 2.14 DEFINITIONS "L"**

**Land Use:** A description of how land is occupied or utilized.

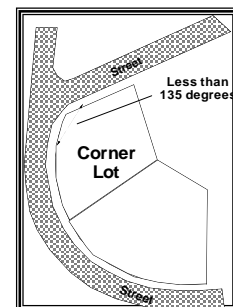
**Loading Space:** Is an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.



**Lot:** A parcel of land, or contiguous parcels of land under one (1) ownership described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this Ordinance and having frontage on an improved public street, or an approved private street. The word "lot" shall include plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.

**Lot Area:** The total area within the described lot lines of a parcel of land, excluding road right-of-way.

**Lot, Corner:** A parcel of land abutting upon two (2) or more streets at their intersection, or upon parts of the same street forming an interior angle of less than one-hundred thirty-five (135) degrees.



**Lot, Coverage:** That portion of the area of lot that contains buildings and structures, including accessory structures, measured as a percent of the entire lot area.

**Lot Depth:** the distance from the front lot line to the rear lot line measured in the general direction of the side lines of the lot.

**Lot, Flag:** A lot which is located behind other parcels or lots fronting on a public road, but which has a narrow extension to provide access to the public road.

**Lot, Interior:** A lot other than a corner lot.

**Lot Line:** The boundaries of a lot which divide one (1) lot from another lot or from a public or existing private road or any other publicly owned parcel of land.

**Lot Line, Front:** A lot line of a length equal to or greater than the minimum lot width as required in this Ordinance which is also the road right-of-way line on interior lots which front a public or private road and one (1) of the right-of-way lines on corner lots and is the lot line most parallel to the closest public or private road on all other lots.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line twenty (20) feet entirely within the lot parallel to and at a maximum distance from the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line.

**Lot, Through or Double Frontage:** An interior lot having frontage on two more or less parallel street as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage and front yard setbacks shall be provided as required.

**Lot Width:** The horizontal distance between the side lot lines, as measured at the front yard setback line.

## SECTION 2.15 DEFINITIONS "M"

**Manufactured Home:** A manufactured home is a structure transportable in one (1) or more sections, eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to required utilities and including plumbing, heating and electrical stems contained therein.

**Manufactured Home Development or Manufactured Home Park:** A parcel of land owned by a person upon which are located two (2) or more manufactured homes whether attached or detached from each other or adjacent buildings which are occupied for residential purposes or are connected to a water supply or wastewater disposal system either on a temporary or permanent basis, regardless of whether or not the development offers rental lots or manufactured homes to the public.

**Medical Marihuana** definitions:

- A. Debilitating Medical Condition means the conditions and circumstances provided in Section 3(a) of the Michigan Medical Marihuana Act (MCL 333.26423(a)).

- B. Marihuana (also known as marijuana and cannabis) means the substance defined in Section 7106 of the Public Health Code, PA 1978, No. 368 (MCL 333.7106).
- C. Medical Use means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
- D. Primary Caregiver or Registered Primary Caregiver shall mean a person who has agreed to assist with a registered qualifying patient's medical use of marihuana and who has a valid registry identification card identifying said person as a primary caregiver for that qualifying patient.
- E. Qualifying Patient or Registered Qualifying Patient means a person who has been diagnosed by a physician as having a debilitating medical condition and who has a valid registry identification card issued by the Michigan Department of Community Health which identifies the person as a registered qualifying patient.
- F. Usable Marihuana means the dried leaves and flowers of the marihuana plant and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant.
- G. Medical Marihuana Dispensary means any location at which medical marihuana is transferred from one person to another, other than transfers of marihuana from a registered primary caregiver to a qualifying patient who is directly linked to that qualifying patient through the State of Michigan registration process.
- H. Compassion Club means any entity which is not available to the public, which is comprised of primary caregivers or qualifying patients and the primary objective includes the use marihuana in any form or the support, facilitation, or instruction of such use.

**Multiple Family Development:** Two (2) or more buildings containing multiple family dwellings on a single lot.

**Municipal Water Supply:** A water supply system owned by a governmental unit.

## SECTION 2.16 DEFINITIONS "N"

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

**Non-conforming Lots of Record:** A platted lot that conformed with all Village zoning requirements at the time of recording of said plat, which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; or a lot outside a recorded plat that conformed with all Village zoning requirements at one time, and which has not been



subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, which no longer conforms with the zoning requirements for lot area, lot width, or both.

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

**Nursery:** A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, house plants, flowers, or perennial ground covers from seed or seedlings for the purpose of retail or wholesale trade.

**Nursing Home:** A state licensed long-term facility providing room and board and supervised personal care by facility staff on a twenty-four (24) hour basis for seven (7) or more aged, infirm or persons recovering from illness which is regulated under Act 368 of 1978. A State Licensed Sub-Acute Care Facility, State Licensed Home for the Aged, a State Licensed Nursing Home, or State Licensed Hospice Facility providing twenty-four (24) hour nursing care shall mean the same.

## SECTION 2.17 DEFINITIONS "O"

**Occupancy Certificate:** A written document received from the Building Inspector stating that the Village Building Code, as amended, and this Ordinance have been complied with as they apply to the construction of a building or structure and the use of a lot and that the building may now be occupied for its previously declared purpose.

**Occupy:** The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage, or use of equipment, merchandise or machinery in any institutional, commercial, agricultural, or industrial building.

**Open Space, Common:** Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

**Owner:** The owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

**Office:** A room, studio, suite or building occupied and for office uses only.

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

**Open Air Business:** Includes uses operated for profit substantially in the open air including:

- A. Bicycle, utility truck or trailer, motor vehicle, boat, or home equipment sale, repair or rental services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools and similar activities.

- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving range, children's amusement park or similar recreation uses (transient or permanent).

## SECTION 2.18 DEFINITIONS "P"

**Park:** A parcel of land, building or structure used for recreational purposes including but not limited to playgrounds, sport fields, game courts, trails, picnicking areas, and leisure time activities.

**Permit:** An official document or certificate issued by an authorized official, empowering the holder thereof to perform a specified activity which is not prohibited by law, but not allowed without such authorization.

**Planned Unit Development:** The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group.

**Portable Storage Container:** Any container designed for the temporary storage of personal and/or business property which is typically rented to owners or occupants of property for their storage use and which is delivered and/or removed by truck trailer. [AMENDED 8/11/08]

**Principal Use:** The primary or predominant purpose to which a parcel of land is devoted as distinguished from an Accessory Use.

**Private Sanitary Sewage Disposal System:** An individual on-site sewage disposal system as defined in the Mid-Michigan District Health Department Sanitary Code.

**Private Water Supply:** A well or other water supply system approved by the Mid-Michigan District Health Department pursuant to Part 127 of Act 368 of the Public Acts of 1978, as amended, M.C.L. 333.12701 et seq.

**Public Sanitary Sewer:** A system of pipe owned and maintained by a governmental unit used to carry human, organic and industrial waste from the point of origin to a point of treatment or discharge.

**Public Storm Sewer:** A system of pipe owned and maintained by a governmental unit, used to carry storm water collected from multiple sources including streets, downspouts, and parking lots to a discharge point. Discharge points include, but are not limited to, a lake, river or tributary, and retention or detention ponds.

**Public Water Supply:** A water works system which provides water for drinking or household purposes to persons other than the supplier of water, except those water works systems which supply water to only one (1) living unit, or as further defined in Public Act 399 of 1976, as amended, MCLA 325.1001 et seq.

**SECTION 2.19 DEFINITIONS "R"**

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

**Rehabilitation:** The upgrading of an existing building or part thereof which is in a dilapidated or substandard condition.

**Repair:** The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

**Residential Family Care Center:** See State Licensed Residential Facility.

**Restoration:** The reconstruction or replication of an existing building's original architectural features.

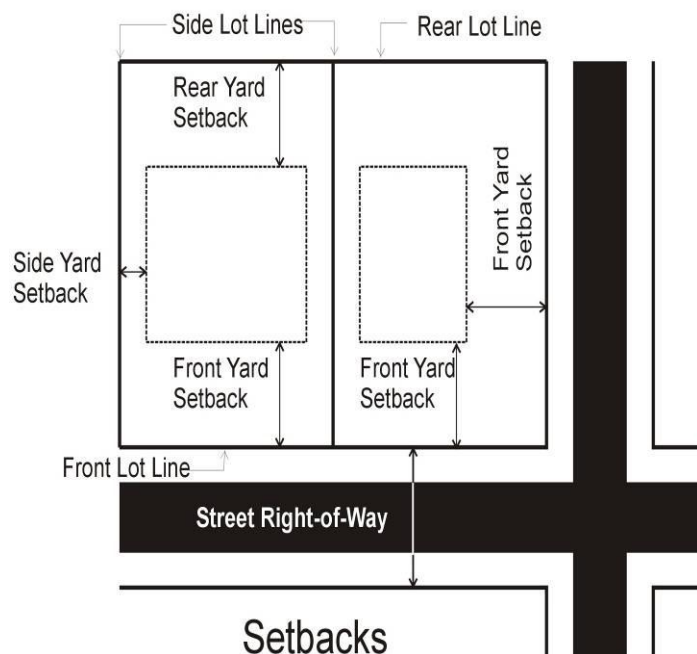
**Right-of-Way:** A public or private strip of land acquired or utilized by reservation, dedication, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.

**SECTION 2.20 DEFINITIONS "S"**

**Satellite Dish Antenna, or Dish Antenna:** An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

**Setback:** The minimum required horizontal distance measured from the front, side, or rear lot line, as the case may be, which describes an area termed the setback on a lot or parcel required by this Ordinance for the District in which it is located.

- A. **Setback, Front:** The minimum required horizontal distance measured from the front lot line which describes an area termed the front setback on a lot or parcel required by this Ordinance for the District in which it is located.
- B. **Setback, Rear:** The minimum required



horizontal distance measured from the rear lot line which describes an area termed the rear setback on a lot or parcel required by this Ordinance for the District in which it is located.

- C. **Setback, Side:** The minimum required horizontal distance measured from the side lot lines which describes an area termed the side setback on a lot or parcel required by this Ordinance for the District in which it is located.

**Shadow Flicker:** Alternating changes in light intensity caused by the moving blade of a WECS casting shadows on the ground and stationary objects. [AMENDED 3/14/11]

**State Licensed Residential Facility:** A residential care family or group facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care for persons in need of that supervision or care. This term does not include such facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

- A. A Family Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.
- B. A Group Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

**Stop Work Order:** An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**Street, Private:** A privately owned and maintained thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare. A private street shall include any drive or roadway which is not a dedicated public right-of-way, and which provides or has the potential for providing access to two (2) or more existing parcels and/or main buildings.

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

**Structural Alterations:** Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or in the dimensions or configurations, or of the roof and exterior walls or means of egress.

**Structure:** A combination of materials whether fixed or portable, anything constructed, erected, or artificially built-up which requires a location on or below the surface of land or water, including a part or parts thereof and all equipment within the structure.

**Subdivision:** Subdivision means 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 one (1) year, or of building

development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act, Act 288 of 1967 of the Public Acts of Michigan, as amended. "Subdivide" or "subdivision" does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of the Village of Fowler Land Division Ordinance.

**Subdivision Plat:** A map or chart depicting the subdivision of land as regulated by the Subdivision Control Act of 1967, Act 288 of the Public Acts of 1967, as amended.

**Substantial Improvement:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred.

- A. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- B. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any compatible alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Swimming or Bathing Pool:** A nonporous container containing water having a depth of greater than twenty-four (24) inches or having a surface area of greater than two hundred fifty (250) square feet, or a pool permanently equipped with a water recirculating system or constructed of structural materials, excepting retention or detention ponds.

## SECTION 2.21 DEFINITIONS "T"

**Tower, Communication:** Towers erected for the purpose of providing Commercial Wireless Telecommunication Services or other radio wave communications.

**Travel Trailer:** A vehicular portable structure built on a chassis which is less than thirty-two (32) feet in length and is of such a width and weight as not to require special highway movement permits when drawn by a vehicle.

## SECTION 2.22 DEFINITIONS "U"

**Use:** The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

**Use Group:** The classification of a building or structure based upon its Purpose as contained in the State Construction Code.

**Useable Floor Area:** See Floor Area, Useable.

**Utility Scale Wind Energy System:** A WECS designed and operated specifically to provide electricity off-site to the municipal electric grid system and not the site on which it is located. [AMENDED 3/14/11]

## **SECTION 2.23      DEFINITIONS "V"**

**Variance:** Permission given by the Zoning Board of Appeals to a property owner to depart from the literal requirements of this Ordinance which may occur when compliance with this Ordinance would create a practical difficulty or unnecessary hardship on the property owner.

**Vehicle:** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or road, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

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

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

**Vehicle Wash Establishment:** A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

**Veterinary Hospital, Clinic, and Indoor Kennel:** Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

**Village:** Means the Village of Fowler, Michigan.

**Village Building Code:** The duly adopted Building Code of the Village of Fowler.

**Village Council:** Legislative body of the Village of Fowler, Michigan.

## **SECTION 2.24      DEFINITIONS "W"**

**Wall:** The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.

**Watercourse:** An open trench either naturally or artificially created which periodically or continuously contains moving water draining an area of at least two (2) acres which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

**Wind Energy Conversion System (WECS):** A device or combination of devices, such as free standing towers with horizontal axis wind turbines, structure mounted vertical axis wind turbines, and all associated facilities and components that convert wind energy to electrical energy. [AMENDED 3/14/11]

**Wind Energy Conversion System, Small:** A wind energy conversion system which has a rated capacity of not more than ten (10) kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power. A small WECS may also provide electricity for off-site use and may be structure mounted or tower mounted. [AMENDED 3/14/11]

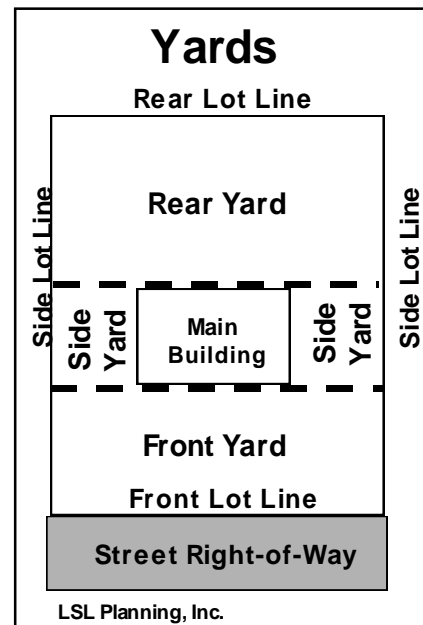
**Wind Energy Conversion System, Large:** A wind energy conversion system which has a rated capacity of more than ten (10) Kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power. A Large WECS may also provide electricity for off-site use and would be typically tower mounted. [AMENDED 3/14/11]

**Wind Energy Monitoring Station:** Any device which is tower or structure mounted, which is temporary in nature, and measures wind data for a specific site. [AMENDED 3/14/11]

**SECTION 2.25 DEFINITIONS "Y"**

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

- A. A Front Yard is an open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.
- B. A Rear Yard is an open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
- C. A Side Yard is an open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.



**SECTION 2.26 DEFINITIONS "Z"**

**Zoning:** The dividing of the Village into districts of a number and shape considered best suited to carry out the purposes of the Zoning Act and the creation of uniform regulations throughout each individual district. Such districts are referred to as Zoning Districts in this Ordinance.

**Zoning Act:** The Michigan Zoning Enabling Act, Public Act 110 of 2006, and its amendments. [AMENDED 3/10/08]

**Zoning Board of Appeals:** The Zoning Board of Appeals of the Village of Fowler.

**Zoning Ordinance:** The Village of Fowler Zoning Ordinance.



## Chapter 3 GENERAL PROVISIONS

### SECTION 3.1 INTENT AND PURPOSE

- A. It is the purpose of this Chapter to establish regulations and conditions which are applicable to all districts of this Ordinance unless otherwise indicated. The purpose of this Chapter is to provide uniform regulations applicable within the Village of Fowler which supplement the specific requirements for each district, and each permitted use.

### SECTION 3.2 ACCESSORY BUILDINGS AND STRUCTURES

- A. General Requirements
1. Accessory buildings and structures that are customarily incidental and subordinate to an existing principal building, structure or use permitted by right within the applicable district, located on the same lot and not otherwise regulated by this Ordinance, shall be permitted subject to the regulations of this Section.
  2. Attached accessory buildings and structures shall be made structurally a part of the principal building and shall conform to the site development standards of the district in which the building or structure is located.
  3. Detached accessory buildings and structures shall be no closer than ten (10) feet from the principal building or structure.
- B. Detached Accessory Buildings and Structures - Residential Districts or Uses
1. Detached accessory buildings and structures shall be located only in the rear yard and at the setbacks required for main buildings for the District in which it is located, except that in no case shall a detached accessory building be closer than six (6) feet from any lot line, as measured from the closest point of the building. In addition, no detached accessory building or structure shall be located upon a rear yard utility easement.
  2. The lot coverage shall not exceed twenty-five percent (25%) for all principal and accessory buildings on a parcel.
    - a. Lot coverage means the percentage of the building footprint for the first floor coverage of all principal and accessory buildings/structures in relation to the total square footage of the parcel.
  3. For parcels less than ½ acre (< 21,780 sq. ft.) a maximum of two (2) detached accessory buildings shall be permitted and the combination of accessory buildings shall not exceed a total of 1,200 square feet and are limited to a maximum height of eighteen (18) feet.
  4. For parcels equal to or greater than ½ acre (= or > 21,780 sq. ft.) A maximum of two (2) detached accessory buildings shall be permitted and the combination of accessory buildings shall not exceed a total of 5.6% of lot square footage and are limited to a maximum of 2,400 square feet and a maximum height of eighteen (18) feet.
  5. In addition to the two (2) accessory buildings, one (1) additional detached storage shed shall be permitted for a Residential District or Use, not to exceed

one hundred and twenty (120) square feet in area. A swimming pool and cover structure shall also be permitted on a lot, subject to the requirements of the Section 3.30 and any other applicable ordinance.

[AMENDED 3/14/11]

- C. Detached Accessory Buildings - Nonresidential Districts or Uses
1. No more than two (2) detached accessory buildings shall be permitted on any lot.
  2. The total area of all accessory buildings shall not exceed twenty five percent (25%) of the floor area of the main building(s).
  3. Detached accessory buildings shall meet all setback requirements for main buildings for the district in which it is located, as measured from the closest point of the building, except that in no case shall be closer than ten (10) feet from any lot line.
  4. No detached accessory building shall be located nearer than ten (10) feet to any main building.
  5. No detached accessory building shall exceed the permitted height for main buildings in the district in which it is located.
  6. Any detached accessory building or structure located closer than fifteen (15) feet to any property line of an abutting residentially zoned or used parcel shall provide a six (6) foot high continuous obscuring screen comprised of plant material, berming, screen walls, fences, or any combination of these elements as described and required in Chapter 13 (Landscaping and Design Requirements).
- [AMENDED 3/10/08]

### **SECTION 3.3 ACCESS TO STREETS**

All lots created after the effective date of this Ordinance shall have the required minimum lot width, as measured at the front setback line, and direct access from said lot, to a public or private street created in accordance with the requirements of this Ordinance. Private streets must only be provided as established by the Village Council.

### **SECTION 3.4 ALTERATION OR CHANGE OF USE**

Except as may otherwise be permitted in this Ordinance, any change in the use of lot or structure, or any alteration of an existing lot or structure shall require the issuance of a development permit and the compliance with all provisions of this Ordinance.

### **SECTION 3.5 ANIMALS, KEEPING OF**

The keeping, housing, raising, use or care of animals is permitted and subject to the following limitations and conditions:

- A. Customary household pets may be kept on a non-commercial basis provided that the number of such animals does not exceed six (6) and that it does not exceed three (3) dogs. This does not include the temporary keeping of newborn animals for a period of time not-to-exceed six (6) months. Customary household pets include such animals as

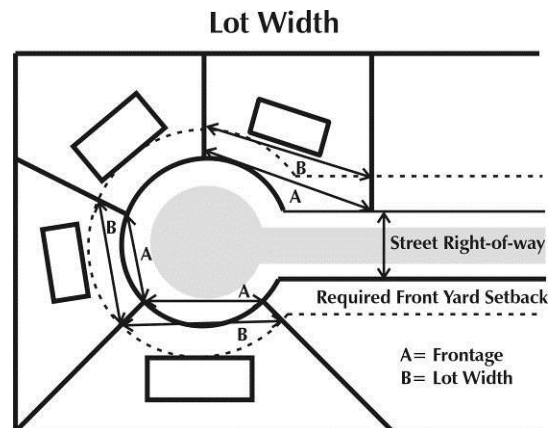
dogs, cats, rabbits, birds, and similar animals; but do not include pigeons, chickens, ducks, geese, goats, sheep, pigs, and other farm livestock.

### SECTION 3.6 CORNER LOTS

- A. A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line.
- B. General Provisions
1. The required front setback shall be met on both the principal and secondary streets; provided that where the lot contains an existing main building, the front setback from the secondary street may be reduced by ten (10) feet.
  2. The remaining setbacks shall side setbacks.
  3. The width of a corner lot shall be determined by the entire length of that front lot line which is considered as the principal lot line.

### SECTION 3.7 CUL-DE-SAC LOTS

- A. The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
- B. The minimum lot width for a lot on a cul-de-sac shall be measured at a line drawn between the two (2) points located at the intersection of a line extending along the side lot lines equal to the distance of the required front setback.
- C. A lot on a cul-de-sac shall have not less than forty (40) feet of lot frontage as measured along the front lot line.



### SECTION 3.8 DETERMINATION OF LOT MEASUREMENTS

- A. A corner lot shall have two (2) front lot lines, two (2) side lot lines, and no rear lot line.
- B. Required front yard setbacks shall be measured from both front lot lines.
- C. For a corner lot with three (3) front lot lines, the remaining lot line shall be a rear lot line.
- D. The front building line on any lot with an outside simple curve will be the straight-line chord that intersects the side lot lines at the point of intersection with the required front set-back line.

- E. The front building line on any lot with an inside simple curve will be the straight line tangent perpendicular to the arc radius at the midpoint of the curve.
- F. Front building lines on lots with compound, broken-back or reverse curves will be determined using the tangent or chord which provides the greatest set-back toward the interior of the lot from the required set-back line and front lot line.

### **SECTION 3.9 EARTH REMOVAL, GRADING AND FILLING**

- A. In order to protect adjacent properties, public roads and public water courses, and to provide for adequate drainage of surface water, the following requirements shall apply to all construction activities requiring a development permit pursuant to this Ordinance.
- B. Filling of property to an elevation above the established grade of adjacent developed property shall not be permitted without the expressed written approval of the Village Engineer.
- C. The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flows away from the building or structure and is managed to avoid increased flow onto adjacent properties or public roads.
- D. Any land development which disturbs the existing grade of more than one (1) acre of land or lies within five hundred (500) feet of an open drain, shall require a Soil Erosion and Sedimentation Control Permit pursuant to Public Act 347 of 1972, as amended, prior to issuance of a development permit.
- E. Any land development, dredging, filling, or other activity requiring a permit pursuant to the Inland Lakes and Streams Act 1972 PA 346, shall be required to obtain said permit prior to the issuance of a development permit.

### **SECTION 3.10 ESSENTIAL PUBLIC SERVICES**

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; it being the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this Ordinance.

### **SECTION 3.11 FEES AND CHARGES**

The Village Council shall by resolution establish such fees and charges as it may require for applications, permits, reviews, and for other procedures and services related to the provisions of this Ordinance.

### **SECTION 3.12 FENCES AND WALLS**

- A. Fences and walls in front yards of all districts shall not exceed three and one-half (3½) feet in height, and shall be of non-solid construction, such as cyclone fencing, which

have openings of at least seventy-five percent (75%) in each square foot of fencing, or wall.

- B. Solid walls and fences, and those of open construction, not exceeding six (6) feet in height are permitted in side and rear yards of all districts.
- C. Finished sides of fences must face out.

### **SECTION 3.13 HOME OCCUPATIONS**

- A. Home occupations shall be approved by the Zoning Administrator, who may issue an approval upon receipt of a letter from the applicant stating his or her intent to comply with the requirements of this Section and the specific measures by which compliance will be maintained.
- B. A home occupation shall be conducted only within the premises of a single-family detached dwelling unit. Home occupations are not permitted within two (2) family, or multiple-family dwellings.
- C. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation. The on-site storage of commercial vehicles used incidentally for or used in the home occupation business shall not be permitted.
- D. Only members of the immediate family who reside on the premises shall be employed in any part of the operation of the home occupation.
- E. Home occupations are permitted only in the principal structure or building. All activities related to the home occupation shall be carried on entirely within the dwelling unit. In no case shall more than twenty-five percent (25%) or four hundred eighty (480) square feet, whichever is smaller, of the gross floor area of the principal building be utilized for a home occupation.
- F. A home occupation shall not generate a traffic burden through excessive traffic or create an adverse effect for the general area in which it is located. The following factors shall be considered by the Zoning Administrator to determine whether the traffic effects on a neighborhood may be excessive:
  - 1. Whether the subject parcel is located at the entrance or the interior of a subdivision where increased traffic volumes may be otherwise anticipated.
  - 2. Whether the nature of the proposed home occupation requires scheduled appointments or whether traffic volumes may be higher at certain times of the day.
  - 3. Whether traffic volumes may vary on a seasonal basis.
  - 4. Whether the home occupation could be conducted in such a manner as to reduce traffic generated in the area.

- G. Any parking for vehicles associated with the home occupation shall be provided off the street, including the street right-of-way.
- H. No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products directly related to and necessary for the home occupation.
- I. The establishment of a home occupation shall not necessitate exterior modification to any building on the property, except as may be required by the Zoning Administrator to comply with adopted Building Codes and requirements.
- J. The applicant shall certify that the home occupation will not be detectable to the normal senses off the lot or produce fumes, odors, dust, vibration, noise, smoke, electrical interference, fire hazard or other conditions which might pose a nuisance to adjacent properties. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- K. The Zoning Administrator may identify allowable hours of operation to avoid possible disquieting effects from the home occupation to adjacent properties.
- L. Signs shall be as allowed as permitted in Chapter 15 of this Ordinance, but in no case shall a sign exceed two (2) square feet in area. The permitted sign shall be non-illuminated and mounted flat against the wall of the dwelling.
- M. Medical Marihuana Primary Caregiver. A primary caregiver, subject to the restrictions set forth in the definitions and requirements of the Michigan Medical Marihuana Act and the general rules of the Michigan Department of Public Health and this Ordinance may furnish and provide the services of a registered primary caregiver as a home occupation, subject to the following restrictions:
1. The existing home occupation regulations of Sections 3.13 B. through J. shall be applicable to the Medical Marihuana Primary Caregiver.
  2. A registered primary caregiver's marihuana growing operations shall be limited to the number of plants allowed by the Michigan Medical Marihuana Act.
  3. No signs or advertisements of any kind shall be permitted on the exterior of the property or structure utilized as a registered primary caregiver home occupation.
  4. A registered primary caregiver functioning as a home occupation from a dwelling shall not be located within a radius of one thousand (1,000) feet from any school, including child day care facilities, church or drug rehabilitation facility.
  5. A registered primary caregiver functioning as a medical marihuana home occupation shall be the only person engaged in the conduct of that activity at that address.
  6. The use of a dwelling as a home occupation under this section shall be limited to one (1) registered primary caregiver providing usable marihuana to not more than five (5) qualifying patients; provided, however, that transfers of medical marihuana from the registered primary caregiver to his or her qualifying patient

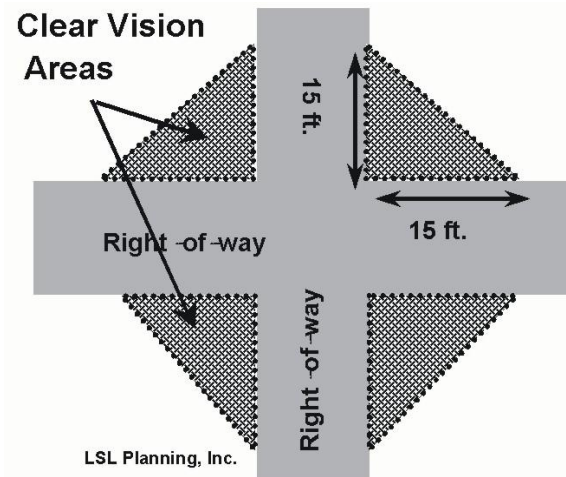
- shall be accomplished only by the delivery of medical marihuana by the primary caregiver at the home of the qualifying patient.
7. Marihuana growing facilities, which are part of a registered primary caregiver home occupation shall not generate light which is visible from the public right-of-way and shall be subject to public safety inspections such as mechanical, electrical and fire prevention inspections.
  8. All medical marihuana shall be contained within the dwelling within a secure, enclosed, locked facility, accessible only by the registered primary caregiver or registered qualifying patient as required by the Michigan Medical Marihuana Act and as approved by, and subject to inspection by the Building Official.
  9. Confidentiality. Supporting information submitted by a primary caregiver, regarding a registered qualifying patient including information regarding the patient's physician, is confidential.  
[AMENDED 3/14/11]

**SECTION 3.14 ILLEGAL DWELLINGS**

The use of any portion of a garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the Village building code and other applicable regulations. In no case, shall any living space located in a basement be counted toward the required floor area requirement for the district in which it is located.

**SECTION 3.15 INTERSECTION VISIBILITY, CLEAR VISION**

No fence, wall, sign, hedge, screen or any planting shall be erected or maintained to obstruct vision between a height of three (3) feet and eight (8) feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines fifteen (15) feet from the point of intersection of the right-of-way lines. The three (3) foot and eight (8) foot height limit shall be measured from the lowest elevation of the segment of the intersecting roads centerline which lays between the point of the intersection of the other centerline and the extension of the line drawn through the points twenty (20) feet from the intersection of the right-of-way lines.



**SECTION 3.16 LIGHTING REQUIREMENTS**

- A. Parking lot lighting shall be as required in Section 14.10, G.
- B. Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any Residential District or use.

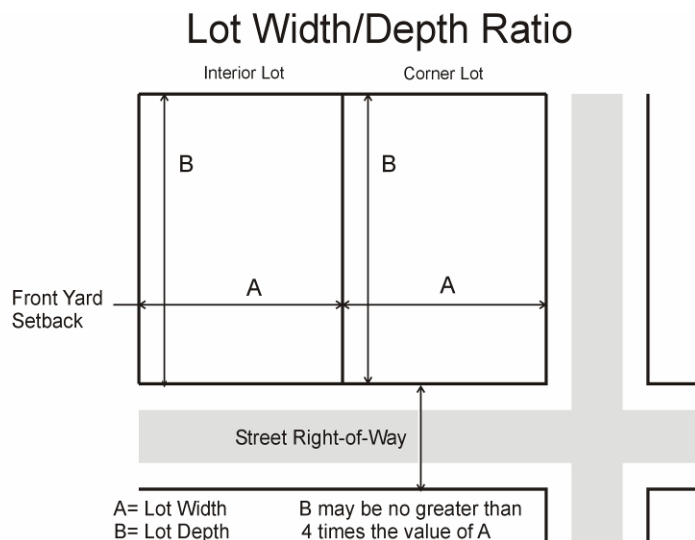
- C. Light fixtures shall be no higher than twenty (20) feet and shall be provided with light cut-off fixtures that direct light downward. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of two hundred and fifty (250) spaces the Planning Commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.
- D. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally. Lighting in these situations may be directed diagonally toward the ground.

### SECTION 3.17 LOT WIDTH/DEPTH RATIO

Lots created after the effective date of this Ordinance having a lot area of less than ten (10) acres shall have a lot width which is equal to, or greater than, one-third (1/3) the depth of the lot.

### SECTION 3.18 MAIN BUILDING OR PRINCIPAL USE

Each parcel shall contain only one (1) main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple family dwellings, contained within a single, integrated complex, sharing parking, signs, access, and other similar features which together form a unified function and appearance.



### SECTION 3.19 MECHANICAL APPURTENANCES

- A. Except in the General Commercial District, mechanical appurtenances, such as blowers, ventilating fans and air conditioning units, shall be placed not closer than twelve (12) feet to any lot line.
- B. Any mechanical appurtenances, including elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar apparatus, located on the roof of any building shall comply with the following standards:
1. Such apparatus shall be enclosed in a screening structure having walls constructed of material compatible in appearance with the main building to which it is attached.
  2. The apparatus and enclosure shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall not occupy greater than ten (10) percent of the total area of the roof of the building on which it is placed.



**SECTION 3.20 NONCONFORMING USES, STRUCTURES, AND LOTS****A. General Provisions**

1. Any lot, use of land, or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, or structure which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall be in violation of this Ordinance, except when the lot, use of land, or structure is in full compliance with the provisions of this Ordinance.
2. An existing lot, use of land, or structure which does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established under a previous zoning ordinance, created, or commenced during a period of time when no valid zoning ordinance was in effect, or was lawfully established under the jurisdiction of this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided there is compliance with this Section.
3. A lawful use of land or structure which is under construction in furtherance of the establishment of a building or structure before the enactment of this Ordinance shall be permitted to continue as a nonconformity.

**B. Nonconforming Uses**

1. No part of any nonconforming use shall be moved unless such movement eliminates the nonconformity.
2. If a nonconforming use is abandoned for any reason for a period of more than nine (9) months, any subsequent use shall conform to the requirements of this Ordinance.
3. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
  - b. The property, buildings, and grounds, have fallen into disrepair;
  - c. Signs or other indications of the existence of the nonconforming use have been removed;
  - d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
  - e. Other actions, which in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
4. A nonconforming use shall not be changed in use to another nonconformity. A nonconformity which is succeeded by a use in compliance with this Ordinance shall lose its nonconformity and shall thereafter be continued in compliance with the provisions of this Ordinance.
5. No nonconforming use shall be permitted to expand or enlarge the size of any building or structure or extend the land area occupied by the nonconforming use, unless approved by the Planning Commission after a public hearing which meets

the requirements of Section 12.3 A, meets the General Standards for Making Determinations of Section 12.4 C., and is subject to the Site Plan Review requirements of Chapter 11. [AMENDED 3/10/08]

C. Nonconforming Structures

1. The expansion of a nonconforming structure shall be permitted provided that the actual addition, or accessory building is in compliance with this Ordinance.
2. No nonconforming building shall undertake a structural change requiring a Construction Permit, pursuant to the Village Building Code, as amended, provided, however, that mechanical, electrical, plumbing, sewage disposal, and well permits shall be issued when no structural alteration or modification is involved; and provided the strengthening or restoring to safe condition of any building, structure, or part thereof declared to be unsafe by any public official charged with protecting the public health or safety may be structurally altered to the extent necessary to comply with the order of that public official.
3. A nonconforming structure which is 40% damaged by fire, collapse, explosion, high winds, vandalism, or other means beyond the owner's control may be repaired or replaced to its former condition.
4. A nonconforming structure shall not be moved in whole or in part except when such moving results in full compliance with the provisions of this Ordinance.
5. Where a nonconforming setback of a structure is equal to or less than one-half ( $\frac{1}{2}$ ) of the distance required by this Ordinance a nonconforming setback may be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

D. Nonconforming Lots of Record

1. A legal nonconforming lot may be used for the purposes for which it is zoned and shall be issued a development permit, provided that:
  - a. If already less than the minimum requirements of this Ordinance, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance.
  - b. Any main building on such lot shall be located such that at least two thirds ( $\frac{2}{3}$ ) of the setback requirements of the district in which the lot is located are met.
2. Contiguous Nonconforming Lots in Common Ownership
  - a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
    - i. Are in common ownership;
    - ii. Are adjacent to each other or have continuous frontage, and;
    - iii. Individually do not meet the lot width or lot area requirements of this Ordinance.
  - b. Such parcels shall be combined into such lot or lots complying as nearly as possible to the lot width and lot size requirements of this Ordinance.

No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this Ordinance.

### **SECTION 3.21 PERMITTED FRONT SETBACK REDUCTIONS**

- A. Where the established front yards for existing main buildings within two hundred (200) feet of the side lot line of, and in the same zoning district as, a subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of existing main buildings entirely or
- B. Partially within two hundred (200) feet of the side lot lines of the subject lot, subject to subsections B and C, below.
- C. The front yard reduction permitted in subsection A, above shall only be permitted if there are two (2) or more lots occupied by main buildings within the area described for computing the average front yard.
- D. In no case shall the front yard setback resulting from the application of these provisions, be less than fifteen (15) feet.

### **SECTION 3.22 PORTABLE STORAGE CONTAINER REGULATIONS** [AMENDED 8/11/08]

- A. Residential Districts
  - 1. No person shall place a portable storage container on private property without first obtaining a zoning permit from the Zoning Administrator.
  - 2. There shall be no more than two portable storage containers placed on individual property at any one time. Portable storage containers shall not exceed 8 feet in height and 160 square feet in size.
  - 3. Portable storage containers shall be placed only in the driveway and be set back a minimum of 10 feet from the front property line.
  - 4. No portable storage container shall remain on the site in excess of 14 consecutive days from the date of the permit and no more than 60 days per year.
  - 5. Portable storage containers utilized in conjunction with a construction project shall meet the requirements of Section 3.31 and be removed within 12 working days after completion of work on the site.
  - 6. Portable storage containers shall not be permitted for use as a detached permanent storage building, utility building workshop, hobby shop or other similar use as defined under Section 3.2 Accessory Buildings and Structures.
- B. Non Residential Districts
  - 1. Portable storage containers shall meet all the requirements described in Part A above with the exception of A. 2.
  - 2. Portable storage containers shall not be utilized for any form of material processing and/or material application such as, but not limited to, painting, printing, machining, metal fabrication or similar activity.

**SECTION 3.23 PROJECTIONS INTO YARDS**

- A. Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be permitted to encroach upon the minimum setback requirements of this Ordinance, provided such projection into a required front or rear yard area is no closer than ten (10) feet from a street right-of-way line or rear lot line. No encroachment shall be permitted into the side setback of the lot.
- B. Terraces, patios, porches, and decks shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance provided they are:
1. Attached to the main building;
  2. Not covered with a roof;
  3. Elevated no more than thirty (30) inches above the average surrounding final grade;
  4. Not fully enclosed by a wall or fence over five and one-half (5½) feet in height;
  5. Located no closer than ten (10) feet from a street right-of-way line or rear lot line; and
  6. Do not encroach into the side setback of the lot.
- C. Terraces, patios, porches, and decks that are enclosed (covered with a roof), not including steps leading to such structures, shall be attached to and considered part of the main building and comply with all regulations applicable to main buildings.
- D. Those structures covered in A and B above shall not be considered nonconforming, and therefore, shall be permitted to be rebuilt even if destroyed by an act of God or by the owner/occupant of the structure.

**SECTION 3.24 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS**

Any single-family dwelling, whether constructed and erected on a lot, or a manufactured home, shall be permitted outside a manufactured home park only if it complies with all of the following requirements:

- A. The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- B. Design Features:
1. The minimum width across any front, side, or rear architectural elevation shall be at least twenty four (24) continuous feet of exterior wall.
  2. All dwellings shall have either a roof overhang of not less than ten (10) inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling;

3. The dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
  4. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
  5. The dwelling shall contain an interior storage area in a habitable basement or cellar located under the dwelling, or in a defined storage room space separate from closet areas, garage, utility or furnace rooms. The minimum 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.
  6. Laundry facilities shall be required.
- C. The dwelling shall conform to the Village Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations allow standards of construction which are less stringent than those imposed by the Building Code in effect in the Village, then in that event, the less stringent Federal or State standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- D. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to said manufactured home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
- E. The dwelling shall be placed upon and secured to a permanent foundation in accordance with the Village Building Code. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable code for single-family dwellings.
- F. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- G. The dwelling shall be connected to a public sanitary sewer.
- H. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity.
1. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans (which may include elevational sketches or photographs) submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision.

2. Any determination of compatibility shall be based upon the standards set forth in this subsection regarding dwellings as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within nine hundred (900) feet of the subject dwelling where such area is developed with dwellings to the extent of not 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 manufactured home parks throughout the Village.
- I. The requirements of this Section shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- J. The foregoing standards shall not apply to manufactured homes located in a state licensed manufactured home park except as required by state or federal law or otherwise specifically required in any Village Ordinance pertaining to such parks.

### **SECTION 3.25 REQUIRED AREA OR SPACE**

No lot, yard, court, parking area or other space shall be so reduced in area or dimension as to make said area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further reduced.

### **SECTION 3.26 REQUIRED WATER SUPPLY AND SANITARY SEWAGE FACILITIES**

No structure for human occupancy shall be erected, altered, or moved upon any premises and used in whole or in part for residential, assembly, business, industrial, institutional, mercantile or storage purposes unless the water supply and waste water disposal system conforms with the requirements of the Michigan Department of Public Health, and Village of Fowler ordinance applicable to public sanitary sewer and public water supply.

### **SECTION 3.27 SEASONAL USES**

- A. The Zoning Administrator, upon receiving an application, may issue a permit for the temporary sale of merchandise in any Nonresidential District, related to a seasonal or periodic event. Such seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities, but shall not include roadside stands.
- B. In considering a request for a temporary permit, the Zoning Administrator must determine that the operation of such a use is seasonal in nature and will not be established as a permanent use. The Zoning Administrator will also determine:
  1. That the use does not have an unreasonable detrimental effect upon adjacent properties;
  2. That the use does not impact the nature of the surrounding neighborhood;
  3. That access to the area will not constitute a traffic hazard due to ingress or egress; and
  4. That adequate off-street parking is available to accommodate the use.

- C. Each permit shall be valid for a period of not more than sixty (60) days and may be renewed by the Zoning Administrator for up to one (1) additional thirty (30) day period, provided the season or event to which the use relates is continued.

### **SECTION 3.28 SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have such buildings constructed thereon and such uses conducted thereon as allowed in its zoning district provided the unit meets the District Regulations for the zoning district in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Village Council in accordance with Chapter 11.
- D. Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
1. The Zoning Administrator and the Village Engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year from the date of approval by the Village Council, on condition that the developer deposit with the Village Clerk cash, a certified check, or an irrevocable bank letter of credit running to the Village of Fowler, whichever the developer selects, in an amount as determined from time to time by resolution of the Village Council.
  2. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified.
  3. If the developer defaults, the Village Council shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.
- E. All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
1. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.
  2. The developer shall dedicate to the Village of Fowler all easements for utilities. Water, sewer and electrical easements may be placed within streets, subject to the approval of the Village Engineer and the standards of the Village of Fowler.
  3. All streets and roads proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance

requirements of this Ordinance, the Subdivision Control Ordinance, and the comparable requirements of the Clinton County Road Commission, if applicable.

### **SECTION 3.29 STORAGE OF RECREATIONAL VEHICLES**

Recreational equipment may be parked outside of an enclosed building on any lot within a Residential District provided that the following requirements are met:

- A. If located on an interior lot recreational vehicle shall not be located within the front yard. If located on a corner lot, recreational vehicle shall not be located in the yard of the secondary front lot line facing the street. If located on a through lot, recreational vehicle shall not be located in the front yard.
- B. Notwithstanding the provisions of this Section, recreational vehicle may be parked within any yard, for cleaning, loading, or unloading purposes for not more than seventy-two (72) hours within any seven (7) day period provided that clear vision areas are maintained and sidewalks are not blocked.

### **SECTION 3.30 STORAGE & REPAIR OF VEHICLES**

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district shall be conducted entirely within the interior of a building.
- B. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.
- C. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction being conducted on such lot. No construction material/equipment including 2x4's, plywood, etc., shall be openly stored in a residential district unless being used for current construction projects.

### **SECTION 3.31 SWIMMING POOLS**

Pools shall be constructed in conformance with the Village Building Code and shall conform to the setback requirements for accessory uses pursuant to Section 3.2 of this Ordinance. Pools shall be located in accordance with the requirements of the Michigan Department of Public Health.

### **SECTION 3.32 TEMPORARY BUILDINGS**

Mobile offices, tool sheds, storage trailers, shall be permitted during the time of actual construction provided they are located outside of a street r.o.w., clear vision areas side/rear

setback areas. These structures shall be removed within twelve (12) working days after the completion or abandonment of construction work on the property.



**SECTION 3.33      TEMPORARY OCCUPANCY IN VEHICULAR DWELLING**

- A. No building or structure erected or moved upon a lot which does not meet the requirements of this ordinance shall be used or occupied as a dwelling.
- B. The owner or renter of any premises upon which a dwelling is situated may permit the parking of an occupied recreational vehicle (RV), motor home, mobile home, or travel trailer, of a guest or visitor on the premises for a period not exceeding a total of fifteen (15) days in any period of three hundred and sixty five (365) consecutive days, provided that a permit is applied for by the owner of said property and issued by the Zoning Administrator. Application for such permit shall include the serial number and license number of the unit, the name and permanent address of the owner thereof, and a statement warranting that the occupants of the unit shall have unrestricted use of the sewer and water supply facilities of the dwelling.

**SECTION 3.34      WIRELESS COMMUNICATION TOWERS**

- A. Commercial wireless communication towers may be considered either a Principal or Accessory use, as a Special Land Use only on public property. This includes mounting onto a publicly or privately owned tower or publicly elevated storage tank or tower. All commercial wireless communication towers enacted after this Ordinance must provide collocation.
- B. Commercial wireless communication towers are only allowed on municipal property and require a municipal franchise agreement. Tower lease areas shall be maintained in a neat and orderly manner and shall be completely fenced. Effective landscaping and screening shall be used around fenced areas. Wireless communication equipment shall be stored inside secured shelters and shall use natural materials and neutral colors for the exterior. Leased areas shall be appropriately lit.
- C. A privately owned, non-commercial tower may be erected as an accessory use in any district, provided such tower does not exceed sixty (60) feet in height, and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. These towers shall not have support wires extending out horizontally from the tower more than ten (10) feet in any direction and shall be safely maintained. Support wires and towers may not be erected or placed closer than ten (10) feet to any side or rear lot line. Support wires and towers are prohibited from being located in the front yard. Towers must be erected, mounted and maintained in a safe manner.



## Chapter 4 ZONING DISTRICTS AND BOUNDARIES

### SECTION 4.1 ZONE DISTRICTS

For the purposes of this Ordinance, the Village of Fowler is hereby divided into the following Zone Districts:

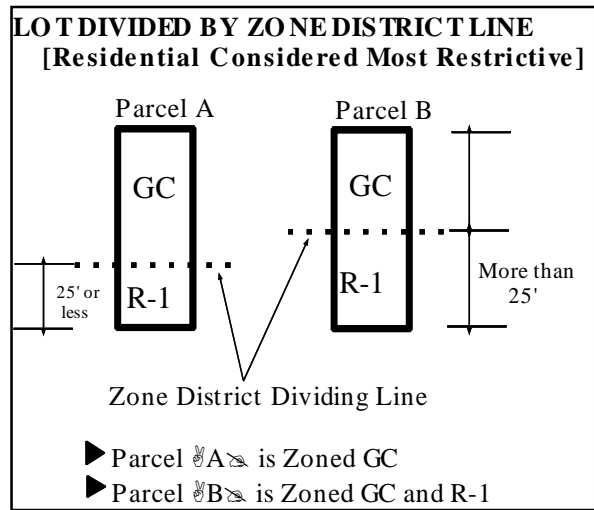
Zoning Ordinance Chapter	Zoning District Name	District Symbol
5	Single-Family Residential	R-1
6	Single, Two & Multiple Family Residential	R-2
7	Central Business District	C-1
8	General Commercial	C-2
9	Industrial	I
10	Planned Unit Development	PUD

### SECTION 4.2 ZONE DISTRICT MAP

- A. **Boundaries** - The boundaries of the districts identified in this Chapter are hereby established as shown on a map entitled "The Zoning Map of the Village of Fowler, Michigan" which accompanies this Ordinance and is made a part of this Ordinance. Except where referenced on said map to a street line, water body, or other designated line by dimensions shown on said map, the district boundary lines follow lot lines or the center lines of streets or alleys or railroad rights-of-way as they existed at the time of adoption of this Ordinance.
- B. **Boundary Interpretation** - Matters of interpretation concerning the exact location of district boundary lines shall be determined by the Zoning Administrator.

**SECTION 4.3 LOT DIVIDED BY ZONE DISTRICT BOUNDARY LINE**

Where a district boundary line, as established in this Ordinance or as shown on the Zoning Map, divides a lot or lots in common ownership and of record at the time of enactment of this Ordinance the **least** restrictive use shall be considered as extending to the entire lot, if the more restrictive portion of such lot is entirely within twenty-five (25) feet or less of said dividing district boundary line. The use so extended shall be deemed to be conforming. If the more restrictive portion of the lot is not entirely within twenty-five (25) feet of said dividing district boundary line, the various portions of the lot shall be zoned according to the underlying zone district classifications.



**SECTION 4.4 ZONING OF ANNEXED AREAS**

- A. Whenever any area is annexed into the Village of Fowler, one of the following rules shall apply:
  1. Land zoned previous to annexation shall be a district of the class to which it most nearly conforms under this Ordinance. The Planning Commission shall recommend the classification to the Village Council, who shall determine by resolution the zoning classification into which the property will be placed.
  2. Land not zoned prior to annexation shall be automatically classified as a PUD in a District of the class to which it most nearly conforms under the Ordinance. This shall be determined by the Planning Commission and shall remain in effect until a Zoning Map for the area has been adopted by the Village Council. The Planning Commission shall recommend appropriate zoning districts for such area within three (3) months after Village Council has referred the matter to the Commission.

**SECTION 4.5 ZONING OF VACATED AREAS**

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the District to which it attaches. If a vacated area is bordered by two (2) different Districts, the area is divided along a line half way between them according to the adjacent zone, unless the Village Council shall otherwise designate.

**SECTION 4.6 ZONE DISTRICTS AND DISTRICT STANDARDS**

Zone districts and district standards are enumerated and described in Chapters 5 through 10.

## **Chapter 5 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**

### **SECTION 5.1 INTENT**

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

### **SECTION 5.2 PERMITTED USES**

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

- A. Single-family detached dwellings.
- B. Day care, family homes.
- C. State licensed residential family care facilities.
- D. Home occupations, in accordance with the General Provisions stated in Chapter 3.
- E. Public parks.
- F. Farms.
- G. Accessory buildings, structures, and uses (to the Permitted and Special Land Uses).

### **SECTION 5.3 SPECIAL LAND USES**

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

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B.. Private, non-commercial or institutional recreation parks and recreation centers.
- C. Golf courses.
- D. Schools.
- E. Bed and breakfast inns.

- F. Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.
- G. Nursing, or convalescent homes.
- H. Churches, synagogues, temples, and other religious places of worship.
- I. Lodges, and private clubs.
- J. Governmental buildings and libraries.
- K. State licensed residential group facilities.
- L. Cemeteries.
- M. Two family dwellings when approved as a Special Land Use and developed as part of a Planned Unit Development under Chapter 10. [AMENDED 3/10/08]

#### **SECTION 5.4 SITE DEVELOPMENT REQUIREMENTS**

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

- A. Site Plan Review is required in accordance with Chapter 11.
- B. Landscaping and screening are required in accordance with Chapter 13.
- C. Applicable General Provision of Chapter 3.
- D. Parking is required in accordance with Chapter 14.
- E. Signs are permitted in accordance with the requirements of Chapter 15.
- F. Unless not required by any other Ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with Village standards. The Planning Commission may waive the requirement for a sidewalk when, in the opinion of the Commission, no purpose would be served by the sidewalk.
- G. Setbacks, height, area, and lot dimensions are required as noted below.

<b>Residential Buildings</b>	<b>District Regulations</b>
Minimum lot area	7,500 square feet
Minimum lot width	75 feet
Maximum height	35 feet (2-1/2 stories)
Front yard setback	25 feet
Side yard setback	10 feet (each side)
Rear yard setback	35 feet
Minimum floor area	1,200 square feet (per unit)
Minimum floor area on ground floor if greater than one story	800 square feet
Maximum lot coverage (includes accessory buildings)	35%

<b>Non-Residential Buildings</b>	<b>District Regulations</b>
Minimum lot area	10,000 square feet
Minimum lot width	75 feet
Maximum height	35 feet (2-1/2 stories)
All yard setbacks	Same as for residential buildings or equal to height of main building, whichever is greater.
Maximum lot coverage	35%





## **Chapter 6 R-2 SINGLE, TWO, AND MULTIPLE FAMILY RESIDENTIAL DISTRICT**

### **SECTION 6.1 INTENT**

This District is intended to provide additional variety in housing opportunities and choices. The R-2 District should also provide high-quality residential dwellings. The regulations for this district recognize the need to provide affordable housing opportunities. Non-residential uses are only allowed to the extent that they serve to improve this residential district.

### **SECTION 6.2 PERMITTED USES**

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

- A. Single-family detached dwellings.
- B. Two-family dwellings, including conversions of single family dwellings to two family dwellings.
- C. Public parks.
- D. Day care, family homes.
- E. State licensed residential family care facilities.
- F. Home occupations, in accordance with the General Provisions of Chapter 3.
- G. Accessory buildings, structures, and uses (to the Permitted and Special Land Uses).
- H. Manufactured Home parks.

[AMENDED 3/10/08]

### **SECTION 6.3 SPECIAL LAND USES**

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

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B. Private, non-commercial, institutional or community recreation parks and recreation centers.

- C. Schools.
- D. Bed and breakfast inns.
- E. Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.
- F. Nursing or convalescent homes.
- G. Churches, synagogues, temples and other similar places of religious worship.
- H. Lodges, and private clubs.
- I. Governmental buildings and libraries.
- J. State licensed residential group facilities.
- K. Day care, group homes.
- L. Funeral Homes.
- M. Cemeteries.
- N. Multiple Family Dwellings [AMENDED 3/10/08]

#### **SECTION 6.4 SITE DEVELOPMENT REQUIREMENTS**

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

- A. Site Plan Review is required in accordance with Chapter 11.
- B. Landscaping and screening are required in accordance with Chapter 13.
- C. Applicable General Provisions of Chapter 3.
- D. Parking is required in accordance with Chapter 14.
- E. Signs are permitted in accordance with the requirements of Chapter 15.
- F. Unless not required by any other Ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with Village standards. The Planning Commission may waive the requirement for a sidewalk when, in the opinion of the Commission, no purpose would be served by the sidewalk.
- G. Setbacks, height, area, and lot dimensions are required as noted below.

<b>Residential Buildings - Single and Two Family Dwellings</b>	<b>District Regulations</b>
Minimum lot area	7,500 square feet per dwelling unit
Minimum lot width	75 feet
Maximum height	35 feet (2-1/2 stories)
Front yard setback	25 feet
Side yard setback	10 feet (each side)
Rear yard setback	35 feet
Minimum floor area	800 square feet (per dwelling unit)
Minimum floor area on ground floor if greater than one story	720 square feet
Maximum lot coverage (includes accessory buildings)	35%

<b>Residential Buildings - Multiple Family Dwellings</b>	<b>District Regulations</b>
Minimum lot area	10,000 square feet
Maximum density*	12 dwelling units per acre*
Maximum height	35 feet (2-1/2 stories)
Front yard setback	25 feet, or equal to the height of the main building, whichever is greater
Side yard setback	15 feet (each side), or equal to the height of the main building, whichever is greater
Rear yard setback	35 feet
Minimum floor area	1 bedroom - 600 square feet 2 bedrooms - 720 square feet 3 bedrooms - 850 square feet 4 bedrooms - 1,000 square feet
Distance between buildings	25 feet, or equal to the height of the tallest building, whichever is greater
Maximum building length	120 feet
Maximum lot coverage (includes accessory buildings)	40%

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

<b>Non-Residential Buildings</b>	<b>District Regulations</b>
Minimum lot area	10,000 square feet
Minimum lot width	80 feet
Maximum height	35 feet (2-1/2 stories)
All yard setbacks	Same as for residential buildings or equal to height of main building, whichever is greater
Maximum lot coverage (includes accessory buildings)	35%

## **Chapter 7**

### **C - 1 CENTRAL BUSINESS DISTRICT**

#### **SECTION 7.1 INTENT**

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

#### **SECTION 7.2 PERMITTED USES**

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

- A. Office buildings for any of the following occupations:
  - 1. Executive, administrative, professional, designers, accounting, drafting, and other similar professional and service activities.
  - 2. Medical, optical, dental, and veterinary offices and clinics.
- B. Banks, credit unions, savings and loan associations, and other similar uses, excluding those with drive-through facilities.
- C. Personal service establishments conducting services on the premises, such as barber, beauty shops, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.
- D. Restaurants, excluding those with drive through facilities.
- E. Coin operated laundries.
- F. Governmental buildings, libraries, and public parks.
- G. Retail businesses conducting business entirely within an enclosed building.
- H. Existing residential uses, subject to the setback requirements of the R-1 district.
- I. Bed and breakfast inns.
- J. Accessory buildings, structures, and uses (to the Permitted and Special Land Uses).

#### **SECTION 7.3 SPECIAL LAND USES**

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

- A. Open air businesses.
- B. Restaurants with drive through facilities.
- C. Banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities.
- D. Vehicle service, towing, and repair facilities. [AMENDED 8/11/08]
- E. Vehicle service and repair facilities.
- F. Churches, synagogues, temples and other similar places of religious worship.
- G. Residential dwellings above retail businesses.
- H. Indoor theaters and commercial recreation centers, such as bowling alleys, skating rinks, and other similar uses.
- I. Hotels and motels.
- J. Schools.
- K. Lodges and private clubs.

#### **SECTION 7.4 SITE DEVELOPMENT REQUIREMENTS**

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

- A. Site Plan Review is required in accordance with Chapter 11.
- B. Landscaping and screening are required in accordance with Chapter 13.
- C. Applicable General Provisions of Chapter 3.
- D. Parking is required in accordance with Chapter 14. No parking or material storage shall be permitted in the front yard unless approved by the Planning Commission as part of a site plan review. [AMENDED 8/11/08]
- E. Signs are permitted in accordance with the requirements of Chapter 15.
- F. Unless not required by any other Ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with Village standards.
- G. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by the Landscape Chapter.

<b>C-1 DISTRICT REGULATIONS</b>	
Minimum lot size	Commercial uses - 2,000 square feet; Mixed residential uses - 2,000 square feet; Residential uses - 7,500 square feet.
Minimum lot width	None required
Maximum height	35 feet
Front setback	None except for corner lots (see general provisions) and existing residential uses (use R-1 standards)
Side setback	None required - see Landscape Chapter
Rear setback	25 feet
Maximum lot coverage (includes accessory buildings)	Residential uses - 35%





## **Chapter 8 C - 2 GENERAL COMMERCIAL DISTRICT**

### **SECTION 8.1 INTENT**

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

### **SECTION 8.2 PERMITTED USES**

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

- A. All permitted uses in the C-1, including accessory buildings, structures and uses.
- B. Existing residential uses, subject to the setback requirements of the R-1 district.

### **SECTION 8.3 SPECIAL LAND USES**

Land and/or buildings in the C-2 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 16:

- A. All special land uses allowed in the C-1 District and:
- B. Open air businesses, including building materials, supplies, and similar uses.
- C. Vehicle wash establishments.
- D. Commercial storage warehouse.
- E. State licensed residential group facility.
- F. Nursing or convalescent homes.
- G. Veterinary hospital, clinic & indoor kennels.
- H. Day care, group or commercial.
- I. Greenhouses or nurseries.

**SECTION 8.4 SITE DEVELOPMENT REQUIREMENTS**

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

- A. Site Plan Review is required in accordance with Chapter 11.
- B. Landscaping and screening are required in accordance with Chapter 13.
- C. Applicable General Provisions of Chapter 3.
- D. Parking is required in accordance with Chapter 14. No parking or material storage shall be permitted in the front yard unless approved by the Planning Commission as part of a site plan review. [AMENDED 8/11/08]
- E. Signs are permitted in accordance with the requirements of Chapter 15.
- F. Unless not required by any other Ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with Village standards. The Planning Commission may waive the requirement for a sidewalk when, in the opinion of the Commission, no purpose would be served by the sidewalk.
- G. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by the Landscape Chapter.

<b>C-2 DISTRICT REGULATIONS</b>	
Minimum lot area	10,000 square feet
Minimum lot width	100 feet
Maximum height	35 feet (2-1/2 stories)
Front yard setback	25 feet - see Landscape Chapter
Side yard setback	15 feet (each side) see Landscape Chapter
Rear yard setback	25 feet - see Landscape Chapter
Maximum lot coverage	40% - does not include parking and landscaping

## Chapter 9

# I - INDUSTRIAL DISTRICT

### SECTION 9.1 INTENT

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

### SECTION 9.2 PERMITTED USES

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

- A. Industrial plants manufacturing, compounding, processing, packaging, treating, or assembling the following:
  - 1. Agricultural products, including but not limited to, the production in greenhouses of flowers, plants, shrubs, trees, or other similar living products.
  - 2. Food and kindred products including meat, dairy, fruit, vegetable, seafood, bakery, confectionery, beverage, and similar products (but not including slaughtering of animals, or rendering or refining of fats and oils).
  - 3. Furniture and fixtures.
  - 4. Printing, publishing, and allied industries.
  - 5. Electrical machinery, equipment and supplies, electronic components and accessories.
  - 6. Engineering, measuring, optical, medical, scientific, photographic, and similar instruments and goods.
  - 7. Cut stone and stone products related to monuments.
  
- B. Industrial plants manufacturing, compounding, processing, packaging, treating, or assembling materials or products from previously prepared materials including the following:
  - 1. Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yard and thread, and other similar products.
  - 2. Apparel and other finished products including clothing, leather goods, furnishing and canvas products.
  - 3. Lumber and wood products including mill work, prefabricated structural work products and containers.
  - 4. Paper and paperboard containers and products.
  - 5. Biological products, drugs, medicinal chemicals and pharmaceutical preparations.

6. Glass products.
  7. Jewelry, silverware and plated ware, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils, and other office and artist supplies and materials, notions, signs, and advertising displays.
  8. Pottery, figurines, and other ceramic products using only previously pulverized clay.
  9. Fabricated metal products, except heavy machinery and transportation equipment.
- C. Wholesale businesses, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and lumber.
  - D. Warehousing, refrigerated and general storage.
  - E. Laundries, laundry services, and dry cleaning and dyeing plants, excluding retail/service outlets serving the general public.
  - F. Office buildings for executive, administrative, professional, accounting, drafting, and other similar professional activities.
  - G. Research and development facilities, including production activities, which shall be limited to fifty percent (50%) of the floor area of the main building.
  - H. Trade or industrial schools.
  - I. New building materials sales and storage, outdoor storage yards, including building trade contractors, and related storage yards.
  - J. Body shops.
  - K. Utilities and communications installations such as electrical receiving or transforming stations, microwave towers, and television and radio towers.
  - L. Utility and public service buildings, including storage yards, but not including essential public services such as poles, wires, and underground utility systems.
  - M. Banks, credit unions, savings and loan associations, and other similar uses as determined by the Zoning Administrator, including those with drive-through facilities.
  - N. Accessory buildings, structures, and uses (to the Permitted and Special Land Uses).

### **SECTION 9.3 SPECIAL LAND USES**

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

- A. Truck and freight terminals, including truck/trailer storage and maintenance.
- B. Bulk oil, propane, and gasoline storage and distribution.
- C. Junkyards.
- D. Adult uses.
- E. Slaughtering of animals.
- F. Stamping plants.
- G. Heavy machinery.
- H. Fiberglass fabricating.
- I. Composting centers.

#### **SECTION 9.4 SITE DEVELOPMENT REQUIREMENTS**

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

- A. Site Plan Review is required in accordance with Chapter 11.
- B. Landscaping and screening are required in accordance with Chapter 13.
- C. Applicable General Provisions of Chapter 3.
- D. Parking is required in accordance with Chapter 14. No parking shall be permitted in the required front yard.
- E. Signs are permitted in accordance with the requirements of Chapter 15.
- F. Unless not required by any other Ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with Village standards. The Planning Commission may waive the requirement for a sidewalk when, in the opinion of the Commission, no purpose would be served by the sidewalk.
- G. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by the Landscape Chapter.

<b>I DISTRICT REGULATIONS</b>	
Minimum lot area	1 acre (43,560 square feet)
Minimum lot width	100 feet
Maximum height	40 feet + 1 foot additional height for each 1 foot of additional setback (all yards) beyond the setback required by this Section
Front yard setback	25 feet - see Landscape Chapter
Side yard setback	10 feet (each side) see Landscape Chapter
Rear yard setback	20 feet - see Landscape Chapter
Maximum lot coverage	70%

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## **Chapter 10**

### **PUD - PLANNED UNIT DEVELOPMENT DISTRICT**

#### **SECTION 10.1 INTENT**

Planned Unit Developments are promoted in the Village of Fowler as a way for the Village to encourage high quality development with an emphasis on enhanced architectural and site design, landscaping, pedestrian, motorized and non-motorized activities. In creating a "win-win" situation, the developer may expect a cooperative working relationship from the Village by receiving relief from typical zoning ordinance standards, such as setbacks and parking requirements.

Planned Unit Developments (PUDs) may be established as distinct zoning districts when approved by the Village Council in accordance with the ordinance procedures. It is the intent of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. In order to accomplish these objectives, this Chapter permits the relaxation of the conventional requirements found in other Zoning Districts. The use of land and the construction and use of buildings and other structures as Planned Unit Developments shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Chapter.

#### **SECTION 10.2 QUALIFYING CONDITIONS**

Any development which fails to meet the following qualifying conditions, at a minimum, shall not be considered for the PUD District:

- A. The PUD site shall not be less than three (3) acres of fully contiguous property not separated by a public street, railroad right-of-way, or other such feature or barrier. If the PUD is to contain a mixture of residential and non-residential uses, the minimum required area shall be twelve (12) acres. The Planning Commission may consider a PUD on lesser acreage if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in Chapter 10. In addition, the Planning Commission may use the same intent section of the Zoning Ordinance when considering a PUD with property that may be separated by a public road, railroad, or other such feature or barrier. It would be up to the applicant to prove why, for example, the state highway (M-21) separating the acreage owned by the applicant, would not restrict the applicant's ability to develop a cohesive PUD. Recreational amenities such as golf courses and health clubs, and ancillary commercial activities such as club houses and pro shops, shall not be considered non-residential uses for purposes of this Section.
- B. All PUD's shall be served by public water and sanitary sewer facilities.

- C. The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all properties.
- D. If the Village of Fowler establishes a Master Plan, then the proposed uses of the PUD must be substantially consistent with the Master Plan descriptions for the subject property.
- E. The PUD must provide for integrated, safe and abundant pedestrian access and movement within the PUD and to adjacent properties.
- F. The PUD should provide for coordinated and innovative architectural styles, building forms and building relationships.
- G. The PUD should provide for enhanced landscaping efforts by the development. Examples include efforts to preserve the natural landscape, providing for tree lined streets, decorative landscaping around structures and focal landscape areas.
- H. Open Space Requirements:
  - 1. The PUD development shall contain usable open space in an amount equal to at least twenty (20) percent of the total PUD site. The Planning Commission may consider a PUD with a lesser amount of open space if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in Chapter 10. It is noted that open space is a very important element of a PUD and reductions to the open space provision should be granted only as a result of specific, clearly documented reasons (i.e.- the PUD may have already been reduced from 7.5 acres to 2 acres and since the project will be located in the downtown, the 20% open space provision would detract from building continuity, historic preservation efforts, etc.).
  - 2. Usable open space shall not include required yards or buffers, parking areas, drives, rights-of-way, utility or road easements, storm water detention ponds, and structures.
  - 3. Such open space shall be permanently set aside for the benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the Village; or, if agreed to by the Village Council, the open space may be conveyed to the Village for the use of the general public.

### **SECTION 10.3 PERMITTED USES**

- A. Any permitted or special land uses otherwise allowed in the existing District, in which the PUD is to be located may be approved within a PUD. If the applicant desires to provide a use that is not a permitted or special land use, then the applicant must prove that the proposed use would enhance the development and the surrounding uses of the district and adjoining districts. If the Village develops a Master Plan, then the applicant would need to show that the proposed use is consistent with the intent of the Master Plan.



**SECTION 10.4 PRE-APPLICATION CONFERENCE**

- A. A pre-application conference will be held with the Village of Fowler Planning Commission for the purpose of exchanging information, providing guidance to the applicant and determining the eligibility of the request for consideration as a PUD.
- B. A request for a pre-application conference shall be made to the Zoning Administrator. As part of the pre-application conference, the applicant shall submit copies of a conceptual plan, at a reasonable time period in advance of the pre-application conference, which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.
- C. The Village Planning Commission shall advise the applicant of the conformance of the PUD concept with the intent and objectives of a PUD in the Village of Fowler, whether it qualifies under the minimum requirements of Section. 10.02. No formal action will be taken at a pre-application conference nor will statements made at the pre-application conference be considered legally binding commitments.

**SECTION 10.5 PUD APPLICATION**

- A. Following the pre-application conference, applicants seeking approval of a PUD District shall submit a complete application for review to the Zoning Administrator who shall schedule a date and time for a public hearing and Planning Commission review. Such application shall include the following:
  - 1. A completed application form, supplied by the Zoning Administrator.
  - 2. Payment of a fee, as established by the Village Council.
  - 3. A narrative statement describing:
    - a. The objectives of the PUD and how it relates to the Intent of the PUD District, as described in Section 10.01.
    - b. The relationship of the PUD to the Village of Fowler Master Plan (if the Village develops a Master Plan).
    - c. Phases of development and approximate time frame for each phase.
    - d. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
    - e. Anticipated start and completion of construction.
    - f. Location, type, and size of areas to be dedicated for common open space.
- B. Sufficient copies of a preliminary development plan shall be provided to the Zoning Administrator. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the same information required in Chapter 11, under Site Plan Review Procedures, Section 11.03,B,1,b .
- C. Upon receipt of an application for PUD approval, the Zoning Administrator shall cause notice to be given, in accordance with the PUD rezoning requirements of the Zoning Act.

**SECTION 10.6 PLANNING COMMISSION RECOMMENDATION**

- A. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

- B. Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the standards of Section 10.11; and shall make a recommendation to the Village Council to approve, approve with conditions, or deny the PUD rezoning.
- C. In its recommendation to the Council, the Planning Commission shall include the reasons for such recommendation, specifically citing appropriate standards and sections of the Ordinance and identifying those specific conditions, if any, on the preliminary plan that it considers necessary for the PUD.

#### **SECTION 10.7 VILLAGE COUNCIL ACTION**

- A. After receiving the recommendation of the Planning Commission, the Village Council shall review the application package, preliminary development plan, the record of the Planning Commission proceedings and the recommendation.
- B. The Council shall then make its findings based on the standards for approval of Section 10.10 as to approval, approval with conditions, or denial.
- C. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the preliminary development plan to the Village Council.
- D. Upon receipt by the Village Council of the applicant's written acceptance of conditions and a revised preliminary development plan incorporating all required changes and conditions, the rezoning shall become effective.

#### **SECTION 10.8 FINAL DEVELOPMENT PLAN APPLICATION**

- A. Within twelve (12) months of the Village Council's approval of the PUD district, including the preliminary development plan, the applicant shall submit a request to the Zoning Administrator for final PUD approval. If the project includes phases, then the applicant must submit a request within twelve (12) months of the Village Council's approval of the PUD district for final approval of any phase.
- B. If the applicant fails to submit a request within twelve (12) months as stated above, then the preliminary site plan (not the PUD rezoning) shall be determined to be invalid. If a preliminary plan includes phases, the applicant must submit each subsequent phase within twenty-four (24) months of the approval date of the initial phase. If the applicant fails to submit the next phase within this time period, then the preliminary site plan incorporating all phases not approved for final site plan shall be determined to be invalid. Upon request to the Village Council and in accordance with Section 10.13,A,1 and 2, the time frames may be extended for a reasonable period of time.
- C. A final development plan application shall consist of the following:
  - 1. A completed application form, supplied by the Zoning Administrator.
  - 2. Payment of a fee, as established by the Village Council.

3. A written response to the findings, review comments, and conditions, if any, from the Village Council's review and approval of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
- D. A site plan containing all of the information required in this PUD Chapter and as stated in Chapter 11, under Final Site Plan Review, Section 11.03,B,2,a. If the plan consists of phases, then the above mentioned information is only required for the specific phase(s) being presented for final approval. Each subsequent phase shall be reviewed in the same manner.

### **SECTION 10.9 PLANNING COMMISSION REVIEW OF FINAL DEVELOPMENT PLAN**

- A. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions of the PUD rezoning. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Sections 10.05 -10.07 of this Ordinance.
- B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the standards for approval stated in Section 10.10.
- C. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- D. Any zoning ordinance regulatory modification (i.e. - setbacks) shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD plan may be appealed to the Zoning Board of Appeals. This provision shall not hamper an individual lot owner from seeking a variance (e.g. - a residential garage variance related to setbacks) following final approval of the PUD, provided such variance does not involve alterations to open space areas as shown on the approved PUD site plan.
- E. A table shall be provided on the final site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this PUD article and rezoning.

### **SECTION 10.10 STANDARDS FOR APPROVAL (BOTH PRELIMINARY AND FINAL)**

Preliminary and final PUD's shall be approved only if they comply with each of the following standards:

- A. The proposed PUD complies with all qualifying conditions of Section 10.02.

- B. The uses to be conducted within the proposed PUD are substantially consistent with the Village of Fowler Master Plan ( If the Village develops a Master Plan).
- C. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- D. The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community.
- E. The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 10.01 and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning.
- F. The proposed PUD meets all the review standards of Section 11.03,B,2,a.

#### **SECTION 10.11 PUD AGREEMENT**

- A. Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Village in recordable form, setting forth the applicant's obligations with respect to the PUD.
- B. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Village Council.
- C. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
- D. The agreement shall also establish the remedies of the Village in the event of default by the applicant in carrying out the PUD, and such remedies shall be binding on all successors in interest to the applicant.
- E. All documents shall be executed and recorded in the office of the Clinton County Register of Deeds.

#### **SECTION 10.12 CHANGES TO AN APPROVED PUD**

Changes to an approved Final PUD shall be permitted only under the following circumstances:

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.

- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
1. Reduction of the size of any building and/or sign.
  2. Movement of buildings and/or signs by no more than ten (10) feet.
  3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
  4. Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking.
  5. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  6. Changes required or requested by the Village, Clinton County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application for the final development plan.

### **SECTION 10.13 TIME LIMIT FOR APPROVED PUD DISTRICT**

Each approved final PUD must be under construction within twelve (12) months after the date of approval of the PUD final development plan, except as noted in this Section.

- A. The Village Council may grant one (1) extension of up to an additional twelve (12) month period from the expiration date of the PUD of phase of a PUD if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:
1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
  2. The PUD requirements and standards, including those of the Zoning Ordinance and Master Plan, that are reasonably related to said development have not changed.
- A. Should neither of the provisions of Section 10.14 A. be fulfilled, or an extension has expired without construction underway, the PUD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.
- B. Should the PUD district become null and void, then the Village Council has the right to rezone the property back to the prior zoning classification(s) or to rezone it to any other zoning classification(s). If the property is not rezoned, then the subject property remains zoned as a PUD, but the preliminary or final PUD plans previously approved become null and void. In order to utilize the property as a PUD, an applicant would have to submit plans for preliminary and final PUD site plan approval as stated in this Chapter, but would not require PUD rezoning action from the Council.



## Chapter 11 SITE PLAN REVIEW

### SECTION 11.1 INTENT AND PURPOSE

It is the purpose of this Chapter to require site plan review approval for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, environmental quality, traffic patterns and the character of future development in the vicinity. It is typical for applicants to request that a planning commission accept a "napkin" type site plan drawing for site plan approval. Unfortunately, it is difficult to use informal methods as a proper way of providing for the health, safety and welfare of Village residents. The Village Council and Planning Commission realize that suitable site plans require an applicant to spend some time and money. It is the Village's belief that the end result of suitable site plan development will allow plans to be properly reviewed for health, safety and welfare issues. In addition, many problems that may have been encountered in or after the project development process are often averted. Averting problems through a planning process can save the applicant and community time and money. The requirements for site plans in this Chapter are intended to reduce hazards to life and property due to fire, flooding, soil erosion, inadequate surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise, vibration, noxious odors, and other hazards; and to facilitate the provision of a system of roads, streets, parking, municipal sewage disposal, storm sewers, municipal water supply, public education, and other public needs. These requirements are further intended to promote orderly development and harmonious design in order to conserve the value of existing development and property.

### SECTION 11.2 USES SUBJECT TO SITE PLAN REVIEW

- A. A Building Permit for any proposed use or building requiring a site plan shall not be issued until a Site Plan has been reviewed and approved in accordance with the requirements of this Chapter.
- B. Final Site Plan approved by the Planning Commission shall be required under the following conditions:
  - 1. All uses Permitted by Special Land Use.
  - 2. All uses required by this Ordinance to provide more than five (5) new off-street parking spaces or two (2) or more loading spaces.
  - 3. Developments of more than one (1) main building or use on a single lot or parcel, submitted as a site condominium.
  - 4. For any use which, in the opinion of the Zoning Administrator, should be reviewed by the Planning Commission for site plan approval because of the intensity of development proposed and potential effects on properties in the general vicinity.
- C. The uses listed below do not require Planning Commission site plan review and approval.

The uses listed below require review and approval only by the Zoning Administrator:

1. Single and two family dwellings (unless submitted as a site condominium under the provisions of B, 3, above).
2. State licensed residential family care facilities.
3. Day care, family homes.
4. Accessory uses or structures.
5. Home Occupations (home occupation must be obtained).

### **SECTION 11.3 PROCEDURE FOR SITE PLAN REVIEW**

#### **A. Application Procedures**

B. An application for Site Plan Review shall be submitted to the Zoning Administrator at least thirty (30) days prior to the next planning commission meeting. If the zoning administrator deems that the application is complete per the requirements of Section 11.3, A,2 then the plans will be reviewed and submitted to the Planning Commission for their consideration. The zoning administrator has the ability to reduce or extend the thirty (30) day period if it is deemed appropriate (e.g. - the submitted site plan is very basic and review can be performed in less than thirty (30) days or the site plan requires additional time due to the high level of detail and size of the project).

1. An application for either a Preliminary or Final Site Plan Review shall consist of the following:
  - a. A completed application form, as provided by the Village. The application shall be signed by an owner of, or person having an interest in the property to be developed, or an authorized representative.
  - b. A suitable number of copies of the Preliminary or Final Site Plan at a scale drawing of not less than 1 inch = 40 feet for parcels less than three (3) acres and 1 inch =100 feet for parcels three (3) acres or more.
  - c. Payment of a fee, in accordance with a fee schedule, as determined periodically by a Village Council resolution.
  - d. A legal description, including the permanent parcel number, of the subject property.
  - e. Other materials as may be required in this Chapter, by the Zoning Administrator or by the Planning Commission.
2. An application shall not be accepted until all required materials are provided. Incomplete applications shall be returned to the applicant with an indication of the items necessary to make up a complete application.

#### **C. Workshop Meeting**

Prior to performing site plan review procedures, an applicant may request a workshop meeting of the Planning Commission. The purpose of the workshop meeting is to allow the applicant to present a conceptual plan, such as in the case of a PUD. In return, the Planning Commission can inform the applicant of the general acceptability of the proposed plans with little or no real costs to the applicant.

#### **D. Preliminary Site Plan Review Procedures**

1. If desired by the applicant, a Preliminary Site Plan may be submitted to the Planning Commission for review prior to Final Site Plan review. The purpose of



- the Preliminary Site Plan Review is to allow further discussion between the applicant and the Commission prior to incurring extensive engineering and other costs which may be necessary for the review of the Final Site Plan.
2. Preliminary Site Plans shall include the following, unless deemed unnecessary by the Zoning Administrator or the Planning Commission.
    - a. Small scale sketch of an area within one quarter (1/4) mile of the subject property showing the property location.
    - b. Existing adjacent streets and proposed streets and existing curb cuts within one-hundred (100) feet of the property.
    - c. All lot lines with dimensions.
    - d. Parking lots (including required parking calculations) and access points
    - e. Proposed buffer strips or screening.
    - f. Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, flood plains, hills, and other significant natural features.
    - g. Location of any signs not attached to the building.
    - h. Existing and proposed buildings, including existing buildings or structures within one-hundred (100) feet of the boundaries of the property.
    - i. Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
    - j. Dwelling unit densities by type, if applicable.
    - k. Proposed method of providing sewer and water service, as well as other public and private utilities.
    - l. Proposed method of providing storm drainage.
  3. The Commission shall review the Preliminary Site Plan and make such recommendations to the applicant that will cause the Plan to be in conformance with the review standards required by this Chapter and this Ordinance.
  4. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.
- E. Final Site Plan Review Procedures
1. A Final Site Plan, including those provided in conjunction with a Special Land Use request, shall be reviewed by the Planning Commission. The Planning Commission shall approve, approve with conditions, or deny the site plan, stating the reasons (use the Standards provided in Section 11.4) for such action in the Planning Commission minutes.
  2. Final Site Plans shall include the following information, unless deemed unnecessary by the Zoning Administrator or the Planning Commission:
    - a. Small scale sketch of an area within one quarter (1/4) mile of the subject property showing the property location.
    - b. Date of preparation/revision.
    - c. Name, address, and professional seal of the preparer.

- d. The topography of the site at a minimum of five (5) foot intervals and its relationship to adjoining land.
  - e. Existing man-made features.
  - f. Dimensions of setbacks, locations, heights and size of buildings and structures, including the locations of existing buildings or structures within one-hundred (100) feet of the boundaries of the property.
  - g. Street rights-of-ways, indicating proposed access routes, internal circulation, relationship to existing rights-of-ways, and curb cuts within one-hundred (100) feet of the property.
  - h. Proposed grading.
  - i. Location, sizes, and type of drainage, sanitary sewers, water services, storm sewers, and fire hydrants.
  - j. Location, sizes, and type of fences, landscaping, buffer strips, and screening.
  - k. Location, sizes, and type of signs and on-site lighting, including information regarding lighting levels at the edges of the site.
  - l. Proposed parking areas and drives. Parking areas shall be designated by lines showing individual spaces and shall conform with the provisions of the Chapter on Parking.
  - m. Any public and private easements.
  - n. Dimensions and number of proposed lots.
  - o. Significant natural features, and other natural characteristics, including but not limited to open space, stands of trees, flood plains, hills, and other significant natural features.
  - p. Building elevations.
3. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.
- F. Staff, Professionals, Agency Reviews
- 1. Prior to the planning commission taking action on an applicant's final site plan, the zoning administrator and/or planning commission may have Village staff, support professionals or governmental agencies provide reviews on the plans. Reviews may also be placed as a condition of approval (e.g. - wetland mitigation approval by a state agency).

#### **SECTION 11.4 STANDARDS FOR SITE PLAN APPROVAL**

- A. The Planning Commission in making its determination shall review the Final Site Plan and find the following prior to approval:
- 1. Compliance with the requirements of this Ordinance and other applicable Village Ordinances.
  - 2. Compliance with any applicable comments received from reviewing Village officials, support professionals or public agencies.
  - 3. Compliance with other applicable state and federal statutes and standards.

**B. General Standards**

In reviewing an application for Final Site Plan Review, the following standards shall be met:

1. The site shall be developed so as not to hinder the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
2. All buildings or groups of buildings shall be arranged as to permit emergency vehicle access by some practical means to all sites. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
3. Every structure or dwelling unit shall have access to a private street, Public Street, walkway or other areas dedicated to common use. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within and around the Village of Fowler.
4. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties, the Village, or the County's storm drainage system.
5. Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create standing water in paved areas.
6. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substances.
7. General purpose floor drains shall only be allowed if they are approved by the Village's Department of Public Works for a connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
8. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without permits and approvals.
9. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

**SECTION 11.5 APPROVED PLANS AND AMENDMENTS**

- A. Upon approval of the Final Site Plan, the Planning Commission Chair, or the Chair's designee, shall sign three (3) copies. One (1) signed copy shall be made a part of the Village's files; one (1) copy of the Final Site Plan shall be forwarded to the Building Official for issuance of a building permit; and one (1) copy shall be returned to the applicant.
- B. Each development shall be under construction within one (1) year after the date of approval of the Final Site Plan, except as noted in this Section.
1. An applicant may request from the Planning Commission one (1) six (6) month extension of the Final Site Plan approval. Any request for extension must be applied for in writing prior to the date of the expiration of the Final Site Plan. Such request may only be granted provided that:
    - a. The applicant presents reasonable evidence that development has encountered unforeseen difficulties beyond the control of the applicant; and
    - b. The site plan requirements and standards, including those of the Zoning Ordinance, that are reasonably related to said development have not changed.
  2. Should neither of the provisions of Section 11.5, B, be fulfilled, or a six (6) month extension has expired without construction having been started and proceeding meaningfully, the Final Site Plan approval shall be null and void.
- C. Amendments to an approved Final Site Plan may occur only under the following circumstances:
1. The holder of a valid Final Site Plan approval shall notify the Zoning Administrator of any proposed amendment to such approved site plan.
  2. Minor changes may be approved by the Zoning Administrator upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Planning Commission. The Zoning Administrator shall consider the following to be a minor change:
    - a. Reduction of the size of any building and/or sign.
    - b. Movement of buildings and/or signs by no more than ten (10) feet, provided that such movement does not cause a violation of this Ordinance.
    - c. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
    - d. Changes in floor plans which do not alter the character of the use or increase the amount of required parking.
    - e. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
    - f. Changes required or requested by the Village as it relates to their roads within the Village or a Clinton County department for safety reasons.
  3. Should the Zoning Administrator determine that the requested modification to the approved Final Site Plan is not minor, a new site plan shall be submitted and reviewed as required by this Chapter.

D. Certification of Compliance

At final inspection or at other appropriate times the Zoning Administrator shall certify whether all conditions and other requirements of the Planning Commission in its approval of the Final Site Plan have been fulfilled.

**SECTION 11.6 APPEAL OF DECISIONS**

A person aggrieved by the decision of the Planning Commission with respect to an action regarding the Final Site Plan may have that decision reviewed by the Board of Zoning Appeals; provided the petition for appeal is filed with the Village Clerk within twenty (20) days of the Planning Commission decision.



## Chapter 12 SPECIAL LAND USES

### SECTION 12.1 INTENT AND PURPOSE

- A. This Chapter is intended to respond to the functions and characteristics of an increasing number of new kinds of land uses, combined with conclusive experience regarding some of the older, familiar kinds of uses, which call for a more flexible and equitable procedure for properly accommodating these activities in the community. Rather than assigning all uses to special, individual, and limited zoning districts, it is important to provide control and reasonable flexibility in requirements for certain kinds of uses that will allow practical latitude for the applicant, but will maintain adequate provision for the security of the health, safety, convenience, and general welfare of the community's inhabitants.
- B. In order to accomplish this dual objective, provisions are made in this Ordinance for a more detailed consideration of each specified activity as it may relate to proposed conditions of location and design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors.
- C. Land and structure uses possessing these particularly unique characteristics are designated as Special Land Uses and may be authorized by the issuance of a Special Land Use permit, which contains conditions and safeguards necessary for the protection of the public welfare.
- D. The following sections, together with previous references in other Chapters of this Ordinance, designate those uses requiring a Special Land Use Permit. With any noted exceptions, the procedures for obtaining such a Special Land Use Permit shall apply to all special land uses indicated.

### SECTION 12.2 APPLICATION PROCEDURES

- A. Application Procedures
  - 1. An application for a Special Land Use deemed to be complete, according to the requirements of Section 12.2, A,2, shall be submitted within a reasonable period of time, determined by the Zoning Administrator, prior to the next scheduled Planning Commission meeting through the Zoning Administrator. The Zoning Administrator, or appointee, will review the application materials to ensure that the requirements of this Section are met, then transmit it to the Planning Commission.
  - 2. An application for a Special Land Use shall not be considered complete until all of the following materials have been submitted and deemed complete by the Zoning Administrator or appointee:

- a. A completed application form, as provided by the Village. The application shall be signed by an owner of, or person having an interest in, the property to be developed, or an authorized representative.
  - b. Suitable number of copies of the Preliminary or Final Site Plan meeting the requirements of Section 11.3.
  - c. Payment of a fee, in accordance with a fee schedule, as determined by Village Council resolution.
  - d. A legal description, including the permanent parcel number, of the subject property.
  - e. A statement with supporting evidence regarding the required findings as specified in Section 12.4.
  - f. Other materials as may be required in this Chapter, the Zoning Administrator, Planning Commission, or Village Council.
3. An application shall not be accepted until all required materials are provided. Incomplete applications shall be returned to the applicant with an indication of the items necessary to make up a complete application.

### **SECTION 12.3 REVIEW AND FINDINGS**

- A. Public Hearing
1. The Planning Commission shall review the application at its next regular meeting following filing and shall set a date for public hearing within forty-five (45) days thereafter.
  2. The Village Clerk shall cause to be published one (1) notice of public hearing in a newspaper of general circulation within the Village not less than fifteen (15) days before the date the application will be considered for approval, and shall provide notice by regular mail or personal delivery to all persons to whom property is assessed within three hundred (300) feet of the subject property and to the occupants of all structures within three hundred (300) feet of the property, regardless of whether the property or occupant is located within the Village. If the name of an occupant is not known, the term "occupant" may be used in making notification.
  3. Such notice shall describe the nature of the request, identify the property that is the subject of the request, and shall include a listing of all street addresses within the property, if such addresses exist.
  4. The notice shall also state when and where the request will be considered, and indicate when and where written comments will be received concerning the request.
- B. Upon conclusion of the hearing, and after time for deliberation, the Planning Commission shall make a recommendation to the Village Council for approval, approval with conditions, or denial. The Commission shall state its reasons for such recommendation in its minutes for submission to the Council.
- C. Upon receipt of a report and summary of hearing comments from the Planning Commission, the Village Council may hold an additional public hearing, if it considers a further hearing necessary, using the same hearing requirements as the hearing held



before the Planning Commission. The Village Council, upon approval of an application for Special Land Use Permit, shall authorize the Zoning administrator to issue the permit subject to the conditions specified by the Village Council.

[AMENDED 3/10/08]

#### **SECTION 12.4 GENERAL STANDARDS FOR MAKING DETERMINATIONS**

- A. The Planning Commission and Village Council shall review the particular facts, circumstances and evidence presented. The Planning Commission and Village Council decisions shall be based on the General Standards of this Section and the applicable Specific Requirements contained in Section 12.6.
- B. It shall be incumbent upon the representatives of the applicant for a Special Land Use Permit to provide documentation and evidence in support of the proposal. It shall also be the obligation of the applicant to furnish evidence, or proof of compliance with the specific and general criteria contained in this Ordinance.
- C. General Standards:  
The General Standards are basic to all Special Land Uses; and the Specific Requirements of Section 12.6 is in addition to and shall be required in all applicable situations.
1. The proposed use shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing character of the general vicinity.
  2. The proposed use is served by necessary public facilities which are adequate or can be made adequate to serve the proposed use. Specifically, existing streets, storm water drainage, water supply, fire protection, police, emergency medical care, sanitary sewer disposal, solid waste disposal, and public recreation shall be adequate to serve the proposed project.
  3. The proposed use shall not be hazardous or disturbing to neighboring uses or cause any conflict to the existing use and quiet enjoyment of surrounding property.
  4. The proposed use shall not involve activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
  5. The proposed use shall be consistent with the intent and purpose of this Ordinance.

#### **SECTION 12.5 CONDITIONS AND SAFEGUARDS**

- A. Before granting a Special Land Use Permit, the Village Council may impose reasonable conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use authorized by the Special Land Use Permit as may be necessary for the protection of the public interest.
- B. Such conditions may include those necessary to insure that public services and facilities affected will be capable of accommodating increased demand and facility loads; to

protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of land; to promote the use of land in a socially and economically desirable manner and be consistent with the general standards as established in this Ordinance and are necessary to meet the intent and purpose of the regulations contained in this Ordinance.

- C. The conditions imposed shall be recorded in the minutes of the Village Council and shall remain unchanged except upon mutual consent of the Village Council and the owner of the property affected. The Village Council shall record in its minutes any changes in conditions of approval of Special Land Use Permits.
- D. Conditions and requirements stated as part of Special Land Use Permit authorization, including all plans, specifications and statements submitted with the application for a Special Land Use Permit, shall be a continuing obligation of its holder. The Zoning Administrator shall make periodic investigations of uses authorized by Special Land Use Permits to determine compliance with all requirements.
- E. Certification of Compliance: At final inspection or at other appropriate times the Zoning Administrator shall certify whether all conditions and other requirements of the Village Council in its approval of the Special Land Use have been fulfilled.
- F. An application for a Special Land Use Permit which had been denied wholly or In part by the Village Council shall not be resubmitted until the expiration of one (1) year or more from the date of denial, except in the case of newly discovered evidence or changed conditions found to be sufficient to justify reconsideration by the Village Council.

## SECTION 12.6 SPECIFIC REQUIREMENTS

The requirements set forth in this Section relate to particular Special Land Uses and specific requirements which must be met in addition to the standards of Section 12.4.

- A. Above ground storage of flammable liquids.
  - 1. The minimum lot size shall be five (5) acres.
  - 2. The lot shall be located so that at least one (1) side abuts a major street (as defined by Act 51) and all access shall be from such street.
  - 3. The main and accessory buildings and any storage facilities shall not be located nearer than three hundred (300) feet to any adjacent Residential District or use.
  - 4. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures will not cause the contamination of any groundwater source.
  - 5. No advertising or other signs, other than required regulatory or warning signs, shall be permitted on any tank or other storage facility.
- B. Adult entertainment **activities**.
  - 1. **Intent:** It is the intent of this subsection to provide regulations controlling those uses which are recognized as having serious, objectionable, operational characteristics inducing a deleterious impact on adjacent uses and areas. Special

regulations of these uses are necessary to insure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood. Uses subject to these controls include: Adult Bookstores, Adult Motion Picture Theaters, Adult Motels, Nightclubs, and Massage Parlors, as herein defined.

2. **Definitions:** For purposes of this subsection, the Adult Entertainment Activities listed above shall have the meanings as noted in the definitions chapter of this ordinance.
3. **General Requirements And Restrictions:** Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the Village Council as provided herein. The Village Council shall only issue a Special Land Use Permit for Adult Entertainment Activities which comply with the following requirements:
  - a. Adult Entertainment Activities shall not be located in any zoning district except the industrial district.
  - b. Adult Entertainment Activities shall not be allowed within five hundred (500) feet of another existing Adult Entertainment Use, or within five hundred (500) feet of any residential zoning district, or within five hundred (500) feet of an existing church, school, park or playground.
  - c. All persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan, or have such other similar qualifications which must be submitted to and approved by the Planning Commission.
    - (1) All massage clinics are subject to inspection from time to time by the Building Inspector and shall be required to file reports as may be required by the Village, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
    - (2) This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder.
    - (3) This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.
  - d. Any sign or signs proposed for the adult use business must comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
  - e. No person younger than eighteen (18) years of age shall enter into or be permitted to remain on the premises of a sexually oriented business at any time the sexually oriented business is open for business.
  - f. A sexually oriented business that offers live entertainment shall provide:

- (1) A dressing area for performers that has direct access to and from the dressing area and the performance area or stage so that the performer may enter the performance area or stage without entering the area from which the patrons view the performance. The dressing area must be separate from, and not freely accessible to, areas of the business to which patrons or customers have ready access, and must contain hot and cold running water, toilet facilities, and must also be handicap accessible to the extent required by the American with Disabilities Act, as amended.
- (2) A performance area or stage that is at least twelve (12) inches above the area from which patrons view the performance.
- (3) Signs must be posted on both that notify patrons of the sexually oriented business that contact between the patrons and any employee, owner, independent contractor, or performer who displays specified anatomical areas or who performs specified sexual activities is prohibited. At a minimum, two (2) such signs must be displayed on the premises of the sexually oriented business. The required sign must be situated in the area of the sexually oriented business in which patrons are admitted and in which patrons are served beverages, if any. The signs must be at least twenty-four (24) inches by thirty-six (36) inches in size, and contain the following notice:

**"NOTICE: Physical contact between patrons and performers who display specified anatomical areas or who perform specified sexual activities is prohibited by Ordinance of the Village of Fowler. Violators will be prosecuted."**

This notice must be printed in bold face types that is at least twenty-four (24) point in lettering size.

- g. An employee, owner, independent contractor, or performer of any kind who displays specified anatomical areas or performs specified sexual activities shall not have any physical contact with a patron of the sexually oriented business in regards to, or the receipt of, tips or gratuities. Physical contact with patron includes, but is not limited to, any contact between the employee, owner, independent contractor, or performer of the sexually oriented business and a patron in which the patron touches any part of the employee's, owner's, independent contractor's, or performer's body, or if the patron causes something in his or her direct control to touch any part of the employee's, owner's, independent contractor's, or performer's body.
- h. A sexually oriented business shall meet all local, state, and federal building code requirements. A sexually oriented business shall only be located in the Village as provided for by the Village Zoning Ordinance.
- i. An operator of a sexually oriented business shall permit the Village Zoning Administrator and his/her agents, including any law enforcement official or building inspector, to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the

- requirements of this Ordinance, of any other Village ordinances, or of any other law or regulation.
- j. No employee, owner, independent contractor, or performer shall engage in any act of public nudity, unless that person is in or on the performance area or stage area.
  - k. No patrons shall be permitted to engage in any act of public nudity.
  - l. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
  - m. No adult use shall be open for business prior to ten (10) a.m., nor after eleven (11) p.m. However, employees or other agents, or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, clean-up, preparation, record keeping, and similar purposes.
- C. Automobile wash establishment, either self-serve or automatic.
- 1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. Such vehicle stacking space shall be equivalent to five (5) times the wash capacity. Wash capacity shall be determined by dividing the length of the mechanical wash/dry machinery by twenty five (25) feet. No less than twelve (12) stacking spaces shall be provided. For self-service establishments, each stall shall have at least two (2) stacking spaces at the entrance to the wash. At least two (2) stacking spaces shall be provided at the exits of both self-serve and automatic car washes.
  - 2. Vacuuming activities, if outdoors, shall be at least three hundred (300) feet from any residential use or district property line. Wash bays for self-service establishments shall be located at least one hundred fifty (150) feet from any residential use or district property line.
  - 3. Should self-service wash bays be located with openings facing an adjacent street, they shall be screened and continuously maintained in good condition.
  - 4. Only one (1) access driveway shall be permitted on any single street. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
  - 5. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
- D. Banks, credit unions and savings and loans with drive-through facilities.
- 1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of three (3) stacking spaces for each outdoor service station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular

circulation and egress from the property by vehicles not using the drive-through portion of the facility.

2. Parking areas shall have side and rear yard setbacks of at least ten (10) feet.
3. Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.
4. Where parking and maneuvering areas directly abut a Residential District or use they shall be fenced and screened from view by a decorative fence or wall, or a landscaped equivalent.
5. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

E. Bed and breakfasts

1. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
2. The facility shall be in compliance with all applicable State licensing requirements.
3. Such uses shall only be established in a detached single family dwelling.
4. Parking shall be located to minimize negative effects on adjacent properties.
5. The total number of guest rooms in the establishment shall not exceed five (5).
6. Exterior refuse storage facilities beyond what might normally be expected for a detached single family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.
7. The establishment shall contain the principal residence of the operator.
8. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses.
9. Meals prepared for commercial use may only be served to overnight guests.

F. Building material suppliers

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. The lot area used for parking, display or storage shall be a paved surface and shall be properly graded and drained so as to dispose of all surface water.

G. Cemeteries

1. A cemetery is a privately or publicly owned property which provides perpetual care of grounds used solely for the interment of human beings or customary household pets.
2. Cemeteries shall be established in compliance with Public Act 368 of 1978, as amended, MCLA 333.1101 et seq., Public Act 88 of 1875, as amended MCLA 128.11I et seq., and other applicable state laws.

3. Minimum property size shall be 10 acres.
- H. Churches, synagogues and other similar places of worship
1. Minimum lot width shall be one hundred fifty (150) feet.
  2. For every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the District, an additional (to the minimum setback) foot of front, side and rear yard setback shall be provided.
  3. Lighting shall be prevented from spilling onto adjacent residential uses.
- I. Commercial storage warehouses.
1. Minimum lot area shall be two (2) acres.
  2. An office for security personnel or operator may be permitted on the premises.
  3. Parking and circulation:
    - a. One parking space shall be provided for each ten (10) storage cubicles, and shall be equally distributed throughout the site. One (1) additional parking space per twenty (20) storage cubicles, up to a maximum of ten (10) spaces, shall be located adjacent to the rental office for the use of customers.
    - b. Two (2) parking spaces shall also be required for the security or operator's office located on the premises.
    - c. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.
- J. Composting centers
1. The applicant shall submit an Impact Assessment describing the expected odors, aesthetics, environmental impacts, vehicular and truck traffic impacts associated with the use, and any mitigation measures to be employed.
  2. The site plan shall clearly illustrate the layout of the composting operation, including: buildings, staging area, parking, on-site truck maneuvering (truck turning radii shall be illustrated), curing area, landscape buffers, sales area and fencing.
  3. Commercial composting operations shall be at least five hundred (500) feet from any residential district.
  4. The applicant shall describe procedures for managing stormwater runoff and preventing pollution of surface water bodies or groundwater.
  5. The applicant shall use acceptable methods for control of odors.
  6. A landscaped major buffer, as described in Chapter 13 shall be provided on all sides adjacent to a residential district. A landscaped minor buffer zone shall be provided on all other sides unless specifically exempted by the Planning Commission in consideration of adjacent uses and topographic features.
  7. Access shall be provided solely on Class A truck routes.
  8. Any materials stored or used on the premises that are not being composted shall meet the standards of the outdoor storage yards Section 12.6.U.
- K. Day care, group homes

1. Off-street parking shall be provided for employees of the facility. Client pickup and drop off areas shall be located in a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.
  2. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
  3. There shall be provided, equipped and maintained, on the premises, a minimum of one hundred and fifty (150) square feet of usable outdoor recreation area for each client making up the licensed capacity of the facility.
  4. The outdoor recreation area shall be fenced and screened from any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
  5. The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.
- L. Funeral home or mortuary
1. Minimum lot area shall be one (1) acre with a minimum width of one hundred and fifty (150) feet.
  2. A well designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
  3. A caretaker's residence may be provided within the principal building.
- M. Government and community service facilities, emergency services, postal services, museums and libraries
1. Minimum lot size shall be one (1) acre. The lot shall provide direct vehicular access to a public street.
  2. Ingress and egress shall be at least fifty (50) feet from an intersection.
  3. Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of at least ten (10) feet.
  4. All principal buildings or outdoor activity areas shall be set back at least fifty (50) feet from any property line.
- N. Hospitals
1. The minimum lot area shall be at least two (2) acres and have direct access to a collector street as defined by this Ordinance.
  2. The emergency entrance, delivery area, and the refuse disposal container area shall be obscured from the general view.
  3. No building shall be any closer than seventy-five (75) feet to any property line or street right-of-way.
  4. Safe pedestrian movement shall be provided within the site and onto adjacent street sidewalks, including street crossings.



- O. Hotels and motels
1. Minimum floor area of each guest unit shall contain not less than two hundred fifty (250) square feet.
  2. The minimum lot area shall be twenty-five thousand (25,000) square feet with a minimum width of one hundred (100) feet, provided that there shall be at least five hundred (500) square feet of lot for each lodging unit.
  3. The maximum lot coverage of all buildings, including accessory buildings shall not exceed more than thirty-five (35) percent of the lot.
  4. All parking areas shall have direct access to a major street as defined by Public Act 51.
  5. Act 51.
- P. Metal and wood stripping establishment.
1. Minimum lot size shall be two (2) acres.
  2. The lot location shall be such that at least one (1) property line abuts a major street. The ingress and egress for all vehicles shall be directly from said thoroughfare.
  3. The main and accessory buildings shall be set back at least seventy five (75) feet from all property lines.
  4. Truck parking and staging areas shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
- Q. New and used vehicle or farm implement sales including incidental servicing and minor repair
1. Minimum lot area shall be one (1) acre.
  2. Minimum lot width shall be two hundred (200) feet.
  3. The lot area used for parking shall be paved and the display or storage areas shall be provided with a permanent, durable, and dust controlled surface, and shall be graded and drained so as to dispose of all surface water.
  4. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
- R. Nurseries and greenhouses
1. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the District.
  2. All loading activities and parking areas shall be provided on the same premises (off-street).
  3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
  4. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.

- S. Open air businesses.
1. The lot area used for parking, display, or storage shall be paved, graded and drained so as to dispose of all surface water.
  2. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
  3. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.
  4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
- T. Outdoor storage yards.
1. All outdoor storage shall only be located in the rear or side yard. If located in the side yard, landscape screening at least six (6) feet tall shall be provided to obscure vision from the front yard. All outdoor storage areas shall be fenced with a six (6) foot high chain link fence, screen wall, or equivalent per the requirements of Section 13.2 F, 3-8.
  2. All outdoor storage yards shall be provided with a hard surface. Asphalt or concrete is recommended, however, where practical other suitable materials, such as compacted limestone may be approved conditionally by the Planning Commission.
  3. Screening of outdoor storage yards shall be provided along all property lines in accordance with the requirements of the Landscape Chapter.
  4. Outdoor storage yards shall only be permitted in conjunction with a principal use on the property.
  5. All flammable or explosive liquids, solids, or gases shall be stored in a manner as required by law.
  6. All outdoor storage shall be maintained in a safe manner.
- U. Private clubs and lodges
1. No building shall be closer than forty (40) feet to any property line or street right-of-way.
  2. No commercial, for profit enterprise shall be permitted to operate on the premises, except that vending machines shall be permitted.
- V. Residential dwelling units, in the same building with commercial uses.
1. No commercial uses, including storage, shall be located on the same floor of the building as the dwelling unit.
  2. Two (2) on-site parking spaces shall be required for each dwelling unit.
  3. Principal access to dwelling units shall be from outside of the building.
  4. No dwelling unit shall be located on the ground floor of the building.
- W. Restaurants with drive through service

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
  2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
  3. Parking areas shall have side and rear yard setbacks of at least ten (10) feet.
  4. Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.
  5. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
  6. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
- X. Shopping centers or shopping malls
1. The minimum lot area for a shopping center or mall shall be three (3) acres.
  2. The site shall have a minimum of three hundred (300) feet of frontage on a collector street, as defined in this Ordinance.
  3. No building shall be located closer than one hundred (100) feet to a street right-of-way line.
  4. Shopping centers or malls shall be served by public sanitary sewer and water supply.
  5. Motor vehicle entrance and exit shall only be from a collector street as defined in this Ordinance.
  6. Pedestrian movement between buildings shall be designed without the need to cross drives or parking areas.
  7. No building within a shopping center or mall shall have a separate access to a street.
  8. Where possible, existing trees and other significant vegetation on the site shall be preserved. Greenbelts, buffer strips, and berms may be required.
- Y. State licensed residential care group facilities
1. The minimum lot area shall be at least one (1) acre.
  2. The proposed site shall have direct access to a major street as defined by Act 51.
  3. No building shall be closer than forty (40) feet to any property line or street right-of-way.
  4. Off-street parking shall be provided for family members and employees of the facility. Client pickup and drop off areas shall be located in a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.

5. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
  6. The facility shall be in compliance with all applicable State licensing requirements.
- Z. Truck terminals
1. Access driveways shall be located no less than one hundred (100) feet from the centerline of the intersection of any street or any other driveway.
  2. Trucks and trailers parked overnight shall be setback from the front lot line a minimum of eighty (80) feet.
  3. The principal buildings and structures shall not be located within one hundred and fifty (150) feet from any Residential District or Use.
  4. The lot area used for parking, display, or storage shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
  5. Any vehicle or equipment stored outside of an enclosed building shall not extend into any Required yard. Other than trailers, no other equipment may be stored or displayed in the front yard. (See definitions for difference between Required Front Yard and the Front Yard).
- AA. Vehicle repair and service station
1. Parking or storage of inoperative vehicles shall be completely surrounded by an opaque fence of not less than six (6) feet in height.
  2. A minimum lot frontage of one hundred (100) feet shall be required.
  3. In addition to the minimum lot area required by the zoning district in which the use is located, the minimum lot area shall be increased five hundred (500) square feet for each fuel pump unit in excess of four (4) and one thousand (1,000) square feet for each service bay in excess of two (2), and three hundred (300) square feet for each parking space intended for the storage of inoperative vehicles.
  4. All buildings and accessory structures including gasoline pumps shall be setback at least fifty (50) feet from any lot line or street right-of-way.
  5. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment.
  6. All activities, except those required to be performed at the fuel pump, shall be carried on within a building.
  7. There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases. In ground storage of flammable liquids shall be in non-metallic containers, pressure tested under the supervision of the Zoning Administrator or appointed designee and annually approved thereafter by the applicable State agency.
- BB. Veterinary hospital, clinic or indoor kennel

1. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than one hundred (100) feet to any residential district and shall not be located within any required yard .
2. Outdoor runs, pens, and/or exercise areas that face residential districts shall be screened with a six (6) foot high fence. Suitable shade, including some natural vegetation shall be provided around these outdoor areas.
3. All indoor and outdoor hospital and clinic areas, runs, pens, and/or exercise areas shall be daily maintained, including the removal of animal waste.



## Chapter 13 LANDSCAPING AND DESIGN REQUIREMENTS

### SECTION 13.1 INTENT

It is the intent of this Chapter to require buffer zones, landscaping, and screening to reduce the negative impacts between incompatible land uses and to provide landscaping within parking areas. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and environment of the Village.

### SECTION 13.2 REQUIRED BUFFER ZONES

- A. A buffer shall be required on any parcel proposed for development which borders a different zone district, as indicated in 13.2, E. Where the adjacent zone district is more intensive, the required buffer shall be installed only on the property which is in the more intensive district.
- B. The specified buffer shall be required on the subject parcel even if the adjacent parcel is unimproved land. A performance bond may be submitted in lieu of the required buffer where adjacent land is unimproved. The buffer shall be installed when the adjacent property begins development and completed prior to any occupancy of the adjoining use.
- C. When any developed parcel existing as of the date of this Ordinance, or as amended, is changed to a less restrictive zone district, any required buffer shall be installed in compliance with this Section within six (6) months of the effective date of the rezoning. This provision shall not apply to rezonings initiated by the Village.
- D. If two (2) zoning districts requiring a buffer zone are separated by a street, the design of the required buffer zone shall be reduced by one (1) level; for example, a required Major Buffer shall be reduced to a Moderate Buffer. Notwithstanding the foregoing, the minimum buffer installed shall be a Minor Buffer, unless a buffer would otherwise not be required by E, below.
- E. The following chart defines the required buffers between adjacent zone districts:

BUFFER ZONE	ADJACENT DISTRICT				
	R-1	R-2	C-1	C-2	I
R-1	NR		Moderate		Major
R-2	NR		Minor		Major
C-1	Moderate	Minor	NR	Minor	Major
C-2	Moderate	Minor		NR	Moderate
I	Major			Moderate	NR

NR = None Required

F. Buffer Zone Development Standards

1. Required buffer zones shall comply with and be maintained to the following standards:

<b>Buffer Requirements</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
Minimum width	30 feet	20 feet	10 feet
Equivalent of 2 rows of approved canopy trees staggered at a maximum of:	20 foot interval		30 foot interval
6 foot high continuous obscuring screen	Required		

2. If the adjacent district is located across a street and across a required front yard, then the buffer shall be placed at a point that is between the side yard and front yard, parallel to the street right-of-way.
3. The required six (6) foot high continuous obscuring screen may be comprised of plant material, berming, screen walls or fences, or any combination of these elements in addition to the required plant materials.
4. If berming is used for all or part of the obscuring screen, all required plant materials shall be placed on the top and both sides of the slope. Where necessary the minimum buffer width shall be increased to accommodate side slopes of a maximum of three (3) feet in width to one (1) foot in height.
5. If a screen wall or fence is used for all or part of the obscuring screen the equivalent of four (4) shrubs is required per twenty (20) linear feet on each side of the wall or fence, unless the wall or fence is constructed on the property line, in which case all required plantings may be placed on the interior of the lot.
6. The balance of the required buffer shall be covered with grass or approved ground cover in accordance with this Section.
7. Any plant material, berm, obscuring screen or other landscape feature shall be installed in such a manner so as not to alter drainage patterns on the site or on adjacent properties; obstruct vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.
8. Should the Village Council (or Zoning Administrator when Village Council action is not required) determine, upon inspection, that adequate landscaping screening on a site already exists or that a landscaping screen is not required, the Council or Zoning Administrator may waive or reduce the requirements of this Section. Criteria which shall be used when considering a waiver or reduction shall include, but shall not be limited to:
  - a. Topography variations.
  - b. Existence of natural vegetation.
  - c. Existing and proposed building placement.
  - d. Sight distances.
  - e. Adjacent land uses.
  - f. Existence of floodplain and areas of poor soils.



**SECTION 13.3 GENERAL LANDSCAPE DEVELOPMENT STANDARDS**

**A. Minimum Plant Material Standards:**

1. Landscaping may include plant materials such as trees, shrubs, ground covers, perennial and annual plants; landscape elements such as rocks, water features, fences, walls, paving materials, and site lighting; and site furnishings such as benches, drinking fountains, trash receptacles, and planters.
2. All plant materials shall be certified to be hardy to Clinton County, free of disease and insects and conform to the standards of the American Association of Nurserymen. All landscaping shall be maintained in a healthy, neat and orderly state, free from refuse and debris. Any dead or diseased plants shall be replaced.
3. Minimum plant sizes at time of installation:

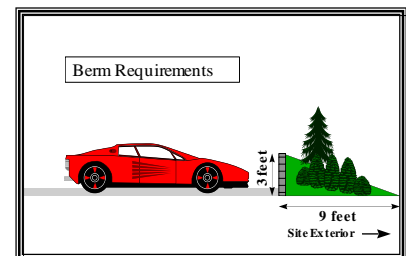
Tree Type	Minimum Size at Planting
Deciduous Canopy Tree	2 ½ inch caliper
Deciduous Ornamental Tree	2 inch caliper
Evergreen Tree	6 foot height
Deciduous Shrub	2 foot height
Upright Evergreen Shrub	2 foot height
Spreading Evergreen Shrub	18 - 24 inch spread

4. Calipers are measured at six (6) inches above the ground, for calipers of four (4) inches or less, and measured at twelve (12) inches above the ground for calipers of greater than four (4) inches. Tree and shrub heights are measured from the ground to the highest point where branches of the bush or tree begin.
5. Plant materials shall not consist or more than thirty-three percent (33%) of any one (1) plant species.
6. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

- |              |                |
|--------------|----------------|
| Alder        | Elm, Siberian  |
| Birch, paper | Maple, Silver  |
| Black Locust | Mulberry       |
| Box Elder    | Poplars        |
| Buckthorn    | Tree of Heaven |
| Catalpa      | Willows        |
| Cottonwood   |                |

**B. Minimum Standards for Berms:**

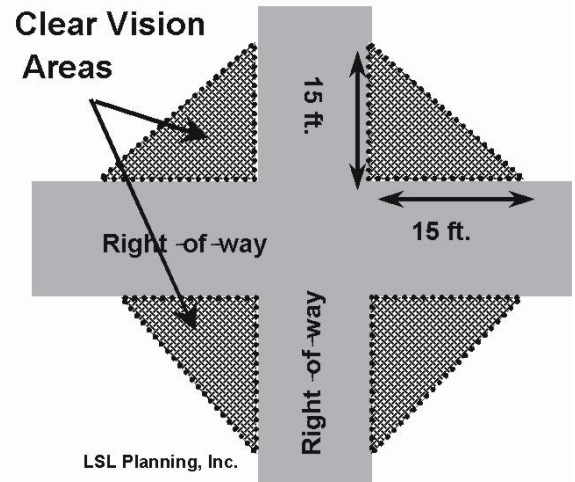
1. Berms shall maintain a side slope not to exceed a one (1) foot rise to a three (3) foot in width ratio.
2. Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.
3. If a berm is constructed with a retaining wall or by



terracing, the earthen slope shall face the exterior of the site.

- C. **Minimum Standards for Obscuring Screen Walls and Fences:**
1. All obscuring screen walls and fences shall be constructed with new, durable, weather resistant and easily maintained materials. Chain link and barbed wire fences are not permitted.
  2. The obscuring screen wall or fence may be constructed with openings that do not exceed twenty percent (20%) of the wall surface. The openings shall not reduce the intended obscuring effect of the wall.
- D. **Retention Areas:** Detention/retention areas shall be permitted within buffer zones provided they do not hamper the screening intent of the buffer or jeopardize the survival of the plant materials.
- E. **Dumpsters:** Outdoor solid waste dumpsters shall be screened by a continuous opaque screen at least six (6) feet high. The screen may be comprised of berming, plant material, screen walls or fences or any combination of these elements. Dumpsters may be installed within buffer zones. If walls or fences are used, some additional landscaping should be used to improve the aesthetic look. Enclosure doors to the dumpsters should remain in the shut position when not necessary for immediate access.
- F. **Phases:** If a project is constructed in phases, the landscape screen may also be constructed in phases. The Zoning Administrator shall determine the extent of landscaping required for each phase based on:
1. Adjacent land uses.
  2. Distance between land uses.
  3. Operational characteristic both on and off site.
  4. Building heights.
  5. Physical characteristics of the site such as topography, existing vegetation, etc.
- G. **Performance Guarantee:** If weather conditions or other factors determined by the Zoning Administrator are sufficient enough to warrant a delay in installing landscaping, a performance guarantee of a sufficient amount to insure the installation of all required landscaping shall be required in compliance with the requirements of this Ordinance to ensure that landscaping is installed within a reasonable period of time.
- H. **Landscape Plan:** A landscape plan shall be submitted for any new development and for any changes to existing development, except as may be noted in this Chapter. The following minimum information shall be provided:
1. Existing and proposed topography, correlated with the grading plan.
  2. Location, size, type, and condition of existing plant materials to be saved, or moved; proposed means of protecting plant material during construction.
  3. Location of proposed planting materials; a planting list of proposed materials (size, quantity, botanical and common names, spacing, and root type).

4. Sections, elevations, plans and details of landscape elements such as berms, walls, ponds, retaining walls, and tree wells.
  5. Proposed planting dates.
  6. Planting and staking details.
- I. **Public right-of-way:** No landscaping, other than lawn, shall be provided or extend into a public right-of-way without specific written approval from the Zoning Administrator, or as may be approved by the Planning Commission or Village Council as part of other approvals.
- J. Clear Vision Areas
1. No plantings shall be established or maintained on any lot which will obstruct the view of a vehicle driver approaching a street intersection. There shall be maintained an unobstructed triangular area formed by the street property lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines. This shall not prohibit the planting or landscaping which will be less than three (3) feet in height at maturity and maintained at that height or lower.
  2. No vegetation shall be maintained in any yard which in the opinion of the Zoning Administrator, will obstruct the view of vehicles entering and / or leaving a site from driveways or adjacent roadways.



#### SECTION 13.4 ADDITIONAL LANDSCAPING AND SCREENING

- A. Where deemed appropriate by the Village Council, Planning Commission or Zoning Administrator where screening is needed to minimize visual, noise, or other impacts from the proposed development or where there may be some other adverse effect caused by the use being reviewed, or where otherwise required by this Ordinance, additional landscaping or screening may be required. Such adverse effect may include, but shall not be limited to, noise, lighting, hazard, traffic conflict, or other such effect.
- B. The nature of such landscaping or screening shall be that required by Section 13.2. The Village Council, Planning Commission or Zoning Administrator may designate which buffer is appropriate for the required landscaping or screening.
- C. All other provisions of this Chapter shall be met.
- D. Landscaping in parking areas is governed by the provisions of Chapter 14.

**SECTION 13.5 RESIDENTIAL LANDSCAPING**

- A. Any site on which a use permitted by this Ordinance is established shall install a lawn for all land areas not covered by impervious surfaces within six (6) months following the issuance of a certificate of occupancy.
- B. A performance guarantee may be required by the Village to ensure that landscaping is installed within the six (6) month period. No landscape materials other than lawn and street trees approved by the Zoning Administrator shall be planted within any untraveled portion of a public road right-of-way or public easement for public utilities.
- C. Residential landscaping shall comply with the applicable provisions of this Chapter.

**SECTION 13.6 DESIGN REQUIREMENTS**

- A. Exterior Building Design
  - 1. Buildings with exterior walls greater than fifty (50) feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls.
    - a. Walls which can be viewed from public streets shall be designed using architectural features and landscaping (abutting the building) for at least thirty percent (30%) of the wall length.
    - b. Other walls shall incorporate architectural features and landscaping for at least twenty percent (20%) of the wall length.
    - c. Window areas shall cover fifteen percent (15%) or more of the exterior wall area facing the principal street(s) from which access is gained.
  - 2. Architectural Features
    - a. Architectural features include, but are not limited to the following: recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority.
    - b. In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements of this Ordinance must also be satisfied.
  - 3. Building Materials
    - a. The predominant building materials should be materials that are characteristic of Michigan such as brick, decorative tilt-up panels, wood, native stone and tinted/textured concrete masonry units and/or glass products.
    - b. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure.

- c. Metal roofs may be allowed if compatible with the overall architectural design of the building.
  - 4. Roof Design
    - a. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building.
    - b. Architectural methods shall be used to conceal flat roof tops.
    - c. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged.
  - 5. Customer Entrances: Clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged.
- B. Community Amenities: Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.
- C. Building and Sign Colors: Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors such as black, neon, metallic or fluorescent for the facade and/or roof of the building are prohibited except as approved for building trim. The use of trademark colors will require approval.
- D. Lighting and Flag Poles
  - 1. On site lighting shall be shielded with cut-off fixtures that direct light downward and onto the site and not shine or glare onto adjacent property or streets.
  - 2. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.
- E. Natural Features: Buildings shall be sited to protect existing natural areas such as steep natural grades, trees, significant groupings of healthy vegetation (shrubs and trees) and rock outcroppings. These areas are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement if healthy and not damaged during construction.
- F. Building Location and Orientation: New buildings shall have at least one principal building entrance oriented toward the front lot line.
- G. Pedestrian Walkways
  - 1. Walkways From the Sidewalk To Building Entrances
    - a. A continuous pedestrian walkway shall be provided from any adjacent street sidewalk for pedestrians to access building entrances.
    - b. This internal walkway shall incorporate a mix of landscaping, benches, and bicycle facilities for at least fifty percent (50%) of the length of the walkway.
    - c. Walkways shall be connected to adjacent sites wherever practicable.

2. Walkways From Parking Areas To Building Entrances
  - a. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from internal parking areas. The walkways shall be located within the parking areas and shall be designed to provide access from these areas to the entrances of the building(s).
  - b. The walkways shall be designed to separate people from moving vehicles as much as possible.
  - c. These walkways shall have a minimum width of five (5) feet with no vehicle overhang or other obstruction.
  - d. The walkways must be designed for disabled access according to the adopted Building Code for the Village of Fowler.
  - e. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.
  
- H. Mechanical Equipment and Service Areas: Mechanical equipment and service areas shall be visually screened from adjacent properties, public roadways, parks, or other public areas. The architectural design of the building shall incorporate design features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.
  
- I. Parking Lot Landscaping: This Section is applicable to parking lots serving any nonresidential or multiple family use in any District. A parking lot landscape plan shall be submitted with any application for a building permit or when otherwise required by this Ordinance.
  1. Landscaping required by this Section shall comply with the applicable provisions of Chapter 14, except that the requirements of this Section shall be waived if the area normally required by this Section to be landscaped is located in a required buffer area.
  2. Existing parking areas:
    - a. These requirements shall be met for any existing parking lot which is expanded more than twenty-five percent (25%) of its original existing area, after the adoption of this Ordinance, or when any parking area is substantially altered (e.g., removal and replacement of existing pavement).
    - b. Any landscaping existing within or bordering any existing parking area shall not be removed unless replaced with landscaping meeting the requirements of this Section.
  3. General Requirements
    - a. Landscaping shall be planted and installed such that, when mature, it does not obscure traffic signs, fire hydrants, or lighting, and does not alter drainage patterns on the site or on adjacent properties; obstruct

- vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.
- b. Any landscaped area required by this Section shall be constructed outside any public street right-of-way.
  - c. All landscaped areas, including perimeter areas, shall be protected by a raised or rolled concrete curb.
4. Frontage Landscaping
- a. Where any parking area directly abuts or faces a public street, a screen shall be required between the parking area and the road right-of-way. Such screen shall consist of, at a minimum, one (1) of the following:
    1. A strip of land at least five (5) feet in width and a solid screen comprised of a hedge or decorative wall, or any combination thereof, which measures at least three (3) feet in height; or
    2. A strip of land at least ten (10) feet in width containing landscaping equivalent to a Minor Buffer, as described in Section 13.2 except that the obscuring screen need not be provided.
  - b. The required strip of land shall also be covered with grass or other approved ground cover.
5. Interior Landscaping
- a. Interior landscaping shall be provided for any parking area containing twelve (12) or more parking spaces.
  - b. The interior of the parking lot shall begin at the outside boundary of the parking area.
  - c. The interior area of any parking lot shall incorporate one (1) planting island per each twelve (12) parking spaces, or part thereof.
  - d. Each planting island shall be at least ninety (90) square feet in area with a minimum single dimension of nine (9) feet.
  - e. Landscaped islands shall be dispersed evenly throughout the parking lot and may be used to separate pedestrian areas, maneuvering areas, and drives.
  - f. Trees planted shall comply with the provisions of Section 13.3, A.





## **Chapter 14**

# **OFF-STREET PARKING AND LOADING**

### **SECTION 14.1 INTENT AND PURPOSE**

It is the intent of this Chapter that off-street parking and loading spaces shall be provided and adequately maintained by each property owner in every district for the parking of motor vehicles for the use of occupants, employees, vendors, and patrons of each building and premise constructed, altered, or enlarged under the provisions of this Ordinance.

### **SECTION 14.2 JURISDICTION**

At the time any building or structure is erected, enlarged, or increased in capacity, or new uses established, off-street parking spaces shall be provided in all districts according to the requirements specified in this Chapter.

### **SECTION 14.3 PARKING AND LOADING PLAN REVIEW**

- A. Whenever five (5) or more vehicle parking spaces are required for a given use of land, plans and specifications for the construction or alteration of an off-street parking area shall be submitted for approval of the Village Council, after receipt of a recommendation from the Planning Commission, before a development permit is issued.
- B. Such plans and specifications shall indicate the location, precise use of buildings, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping, and any other detailed features essential to the complete design and construction of the parking area.
- C. Whenever fifteen (15) or more vehicle parking spaces are required for a given use of land, plans and specifications for the construction or alteration of off-street parking areas shall be submitted by a registered professional engineer or other appropriate professional.

### **SECTION 14.4 LOCATION OF PARKING AREAS**

All off-street parking and loading areas shall be located on the same lot, or other lot in the same zoning district located not more than two hundred (200) linear feet from the building intended to be served. On-street public parking may be considered available to meet all or any portion of the needs of a non-residential use, provided that the Planning Commission finds parking spaces are reasonably available at the time of day needed.

**SECTION 14.5      PARKING AREAS EXISTING BEFORE THE EFFECTIVE DATE OF THIS ORDINANCE**

A parking area, parking space, or loading area which exists at the time this Ordinance becomes effective, or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall not be relinquished or reduced in any manner below the requirements established by this Ordinance.

**SECTION 14.6      USE OF RIGHT-OF-WAY**

The right-of-way of any Village street, shall not be used for off-street parking without the written permission of the Clinton County Road Commission, the Village Council and / or the State of Michigan Department of Transportation depending on the jurisdiction for the street.

**SECTION 14.7      USES OF PARKING AREAS**

- A.      Parking spaces and loading areas shall be used exclusively for the parking of vehicles associated with a building, structure or land use for which whose employees and patrons it is designed to serve. No commercial activity, special events, repair work, advertising, servicing, or selling of any kind shall be conducted within required parking areas without permission being granted by the Village Council. No portable structures, buildings, or equipment shall be permitted within required parking areas, except as may otherwise be permitted by this Ordinance.
  
- B.      No signs shall be erected in parking areas except the following: no more than one (1) directional sign at each entrance or exit may be erected which may also bear the name of the enterprise the lot is intended to serve; disabled parking space signs, as provided by the Michigan Construction Code Act, Public Act 230 of 1977, as amended, MCLA 125.1501 et. seq. Such signs shall not project beyond the property line of the premises.

**SECTION 14.8      SCHEDULE OF PARKING REQUIREMENTS**

The following table contains the parking requirements for individual uses and activities within the Village of Fowler:

USE	Number of Parking Spaces Required Per Unit of Measure *
<b>Residential / Institutional / Recreational</b>	
Single family or duplex dwellings	Three (3) for each dwelling unit, one of which shall be within an enclosed garage
Multiple family dwellings	Three (3) for each dwelling unit, one of which shall be within a covered parking structure
Lodging and boarding house, fraternity, or similar use, including bed and breakfasts	One (1) for each room
Housing for the elderly	One (1) for every two (2) dwelling units, plus one (1) space for each five dwelling units. However, should units revert to general occupancy, then three (3) spaces per unit shall be provided, one of which shall be within a covered parking structure
Community building, clubhouse, meeting facility, or any similar type of use.	One (1) space for each one hundred (100) square feet of gross building area or one (1) space for each three (3) persons permitted to occupy the building by law, whichever is greater
Churches, synagogues, Temples or similar places of worship	One (1) for each four (4) seats in the main room for worship
Hospitals	Two (2) for each patient bed
Home for the aged and nursing home	One (1) for each two (2) beds
Day care centers, group	Two (2) spaces, plus one (1) for every eight (8) children licensed capacity
Elementary and junior high schools	Five (5) spaces plus one (1) space for each classroom in addition to the requirements of the auditorium
Senior high schools	Five (5) spaces plus one (1) space for each classroom plus one (1) space for each ten (10) students, OR space required for the auditorium or stadium, whichever is greater
Theaters & auditoriums	
Stadium, sports arenas or similar places of outdoor assembly	One (1) for each four (4) seats
Dance halls, civic clubs, fraternal orders, union halls, or any similar type of use	One (1) space for each one hundred (100) square feet of gross floor area or one (1) space for each three (3) persons permitted to occupy the building by law, whichever is greater

USE	Number of Parking Spaces Required Per Unit of Measure *
<b>Commercial</b>	
Automobile washes	Three (3) standing spaces for each washing bay if self serve and seven (7) standing spaces for an automatic wash
Vehicle repair and service stations	Two (2) for each service bay and one (1) for each washing bay
Miniature golf courses	Five (5) spaces plus three (3) for each hole
Bowling alleys	Five (5) for each alley, in addition to any requirement for other uses such as bar, restaurant or billiard room
Funeral homes and mortuary Establishments	One (1) for each thirty (30) square feet of floor space
Personal Service Establishments	One (1) space for each fifty (50) square feet UFA
Restaurants - without drive-through facilities	One (1) space for each one hundred (100) square feet UFA or one (1) space for each two (2) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	One (1) space for each one hundred (100) square feet of UFA or one (1) space for each one and one-half (1½) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Retail stores not otherwise specified	One (1) space for each two hundred (200) square feet GFA
Video rental stores	One (1) space for each one hundred (100) square feet UFA
Motels, hotels, or other commercial lodging establishments	One (1) for each occupancy unit plus extra spaces for dining rooms, ballrooms, or meeting rooms as required by this Ordinance. Should units revert to multiple-type use, then two (2) spaces per unit shall be provided
<b>Office</b>	
Business or professional offices and banks not including medical office	One (1) for every two hundred (200) square feet of floor area
Medical Offices and Clinics	One (1) for every one hundred and fifty (150) square feet of floor area
<b>Industrial</b>	
Industrial or research establishments	One (1) space for each one thousand (1,000) square feet plus those spaces required for offices located on the premises
Warehousing or wholesale establishments	One (1) for every seventeen hundred (1,700) square feet of floor area

\* For the purposes of this Chapter, a seat shall be a minimum of twenty (20) inches in width.

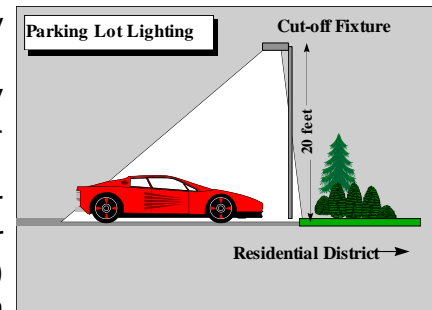
#### **SECTION 14.9 RULES FOR MEASUREMENT AND INTERPRETATION**

- A. In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed, shall apply.
- B. When benches, pews, or other similar seating is used, each twenty-two (22) inches of said seating shall be counted as one seat.
- C. Requirements for parking stated in terms of employees shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
- D. Floor area, unless otherwise noted, shall include the entire enclosed floor area of a building as measured from the exterior surface of exterior walls.
- E. Where units or measurement determining the number of required parking spaces result in a fraction equal to or greater than one half an additional space shall be required.

#### **SECTION 14.10 SITE DEVELOPMENT REQUIREMENTS**

- A. All off-street parking areas shall be designed, constructed and maintained in accordance with this Section.
- B. All parking areas shall have a bituminous asphalt or concrete surface.
- C. Ingress and egress to parking areas shall be provided by means of clearly limited and defined drives as provided for below:
  - 1. All parking areas providing more than five (5) parking spaces shall be provided with a drive for ingress and egress of not less than twenty four (24) feet in width. When one-way drives or boulevards are utilized, the minimum width of a lane shall be twelve (12) feet.
  - 2. All parking areas providing more than five (5) parking spaces shall be designed so as to not make it necessary for vehicles to back directly onto a street.
- D. Each parking space shall be clearly identifiable. Parking spaces and maneuvering lanes shall be sufficient in width to allow ease in turning movements in and out of parking spaces. The minimum required dimensions of parking spaces and maneuvering lanes shall be as indicated on the accompanying table.
- E. Off-street parking facilities for trucks, buses, and recreational vehicles at restaurants, motels, hotels, service stations, commercial garages, and similar establishments shall be sufficient in size to adequately serve large vehicles and trucks without interfering with other vehicles shall not be less than twelve (12) feet in width and forty (40) feet in length. Access drives for such vehicles shall be designed with adequate turning radius and with special provisions for slow entry onto public streets and highways.

- F. Commercial Vehicles
1. The owner, tenant, or lessee of any lot, parcel, or tract of land in a Residential District or on a lot used for residential purposes shall not permit or allow the storage or parking, at any time thereon, of trucks, semi-trucks and tractor trailers, manufactured homes, tractors, bulldozers, earth carriers, drag lines, cranes, steam shovels and/or any other heavy equipment or machinery.
  2. It is provided, however, that the owner, tenant, or lessee of a farm may openly store the machinery and equipment used on the farm; and it is further provided that equipment necessary to be parked on a lot or parcel during the construction work thereon shall be excepted from this restriction.
  3. This restriction shall not apply to pickup or panel trucks under nineteen (19) feet in length.
- G. Parking lots shall be adequately lit to ensure security and safety and shall meet the following requirements:
1. Light fixtures shall be no higher than twenty (20) feet and shall be provided with light cut-off fixtures that direct light downward.
  2. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of five hundred (500) spaces the Planning Commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.
  3. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.



#### SECTION 14.11 JOINT USE OF PARKING AREAS

- A. The use of a single parking area by two (2) or more uses which are individually required to maintain more than ten (10) parking spaces shall be encouraged whenever such use is practical and when all requirements for location, design, and construction are met.
- B. In computing capacities of any joint use of parking areas, the total parking space requirement is the sum of the individual requirements that will occur at the same time each day. When parking space requirements for individual uses occur at distinctly different times during the day, the total required parking spaces may be reduced by action of the Village Council, upon recommendation of the Planning Commission, provided that no parking spaces shall be counted which are more than two hundred (200) feet from any entrance to building using joint parking areas.
- C. A copy of an agreement between the joint users of a parking area shall be recorded with the Clinton County Register of Deeds. Such agreement shall guarantee the long term use and maintenance of the parking facility by each party.

**SECTION 14.12 BUILDING ADDITIONS AND CHANGE OF USE**

Whenever a building, structure, or use is modified, expanded, and changed in use from one category to another, and such activity requires a permit pursuant to this Ordinance, the parking space requirements shall be reviewed and made to comply with the standards of this Ordinance.

**SECTION 14.13 LOADING AND UNLOADING SPACE REQUIREMENTS**

- A. In order to prevent undue interference with the public use of streets, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide loading and unloading space on the premises for the number of vehicles that will be at the premises at a particular time on an average day of full use.
- B. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted pursuant to Chapter 11, Site Plan Review.
- C. Loading spaces required under this Section shall be provided as area additional to off-street parking spaces required in this Chapter, and such loading spaces shall not be considered as supplying off-street parking space.
- D. There shall be provided adequate space for standing, loading, and unloading services not less than twelve (12) feet in width, forty (40) feet in length, and fifteen (15) feet in height, open or enclosed, for uses listed in the following table:

Use	Floor Area (Sq. Ft.)	Required Spaces
Commercial uses, such as retail stores, personal services amusement, automotive service	First 2,000	none
	Next 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Hotels, Offices	First 2,000	none
	Each additional 50,000 or fraction thereof	1
Wholesale and storage, including building and contractor's yards	First 20,000	1
	Each additional 20,000 or fraction thereof	1
Manufacturing uses	First 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1

Use	Floor Area (Sq. Ft.)	Required Spaces
Funeral Homes and Mortuaries	First 5,000 or fraction thereof Each additional 10,000 or fraction thereof	1
Hospitals	First 10,000	none
	Next 100,000 or fraction thereof	1
	Each additional 200,000 or fraction thereof	1
For similar use not listed	For each building 5,000 or over	1

- E. All off-street loading and unloading facilities that make it necessary to back directly into a public road shall be prohibited. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way.
- F. Design Requirements
  - 1. Off-street loading spaces and access drives shall be drained, and shall have appropriate bumper or wheel guards where needed.
  - 2. Any light used for illumination shall be arranged to reflect light away from adjoining premises and streets.
  - 3. Where any off-street loading space adjoins or abuts a lot or premises used for residential or educational purposes, or abuts the Residential Zoning District, a masonry wall or solid fence not less than four (4) feet in height shall be provided between the off street loading and unloading space and said uses or district.

**SECTION 14.14 DEFERRED PARKING**

The Village Council, upon recommendation from the Planning Commission, may defer construction of a portion of the required number of parking spaces for nonresidential uses if the following conditions are met:

- A. Deferred parking areas shall be shown on a site plan and shall be of sufficient area to permit the construction of the total number of parking spaces required by this Section. Such areas shall not be used for any other purpose required by this Ordinance (such as landscaped buffers, etc.) and shall be kept open.
- B. Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the Zoning Administrator based on parking needs and shall require the submission and approval of an amended site plan, as required by Chapter 11.

**SECTION 14.15 DISABLED PARKING REQUIREMENTS**

Off-street parking areas shall include spaces for the disabled in accordance with the provisions of Act 230 of the Public Acts of the State of Michigan, 1972, as amended and shall be included in the count of required spaces.



**SECTION 14.16 NONRESIDENTIAL & MULTIPLE FAMILY ACCESS**

- A. The following shall apply to any new development proposed for nonresidential and multiple family uses:
1. A maximum of one (1) driveway per street shall be permitted per principal use, or collective principal use.
  2. A second driveway may be permitted provided that such drive is constructed and permitted to share access with an adjoining principal use or existing lot within the same zoning district, or such drive is part of a one-way driveway system that permits a single point of ingress and a single point of egress.
  3. The Village Planning Commission may permit additional driveways, if justified by a professional traffic study provided by the applicant or owner indicating the need for such additional driveways.
  4. The location of new driveways shall be determined by the Village Planning Commission which shall take the following factors into consideration:
    - a. The ability to share driveways with adjacent properties and the general compatibility of those adjacent land uses;
    - b. The proximity of the proposed driveways to existing driveways on adjacent properties and properties on the opposite side of the street;
    - c. Any provisions made for front or rear service drives that may eliminate the potential for future driveways on nearby properties;
    - d. The relationship of the proposed driveway location to the internal circulation of the development site.
    - e. The proximity of the proposed driveway to street intersections. Driveways shall be located as far as practicable from any public or private street intersection.



## Chapter 15 SIGNS

### SECTION 15.1 PURPOSE AND INTENT

The purpose of this Chapter is to promote traffic safety, public safety, and the conservation of property values through the application of reasonable controls over the use, size, placement, and general appearance of signs.

### SECTION 15.2 DEFINITIONS

The following definitions refer to this Chapter of this Ordinance and are placed here for convenience:

- A. **Sign:** Sign shall mean and include every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person.
- B. **Sign, Billboard:** Any sign, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location not available on the lot on which the sign is located, or to express a point of view, by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a billboard structure shall constitute a separate billboard.
- C. **Sign, Business:** Any sign erected for the purpose of advertising a business, product, or subject related to the premises on which the sign is located.
- D. **Sign, Display Area:** Display area means the entire area enclosing the extreme limits or writing, lighting, representation, emblem or any figure of similar character, together with any frame or other material forming an integral part of the display 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.
- E. **Sign, Freestanding:** An advertising structure which is supported by one or more uprights with all parts of the display surface of the sign eight (8) feet or more above the grade at the base of the sign.
- F. **Sign, Ground:** A sign which is supported by one or more uprights in or upon the ground where parts of the display surface are less than eight (8) feet above the grade to the bottom of the display area.
- G. **Sign, Home Occupation:** A sign containing only the name and occupation used for the purpose of advertising services in conjunction with a lawful home occupation.

- H. **Sign, Identification:** A sign giving the nature, logo, trademark or other identifying symbol; address; or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.
- I. **Sign, Incidental:** A sign that identifies street address, entrances and exits, safety precautions, identifying logos without text, and other such incidental information, and which sets forth no other advertisement intended to be read from the street.
- J. **Sign, Marquee:** A sign which is attached to or hung from the underside of a marquee, awning, canopy, or other covered structure projecting from and supported by a building and does not project horizontally beyond or vertically above said marquee, awning, canopy, or covered structure.
- K. **Sign, Name Plate:** A sign located on premises, giving the name or address, or both, of the owner or occupant of a building or premises.
- L. **Sign, Off-Premise:** A sign located on a different parcel of land or lot or premise than where the business, product, service, event, or person or subject is being advertised.
- M. **Sign, On-Premise:** A sign located on the parcel of land or lot advertising a business, product, service, event, person or subject being offered on said parcel of land or lot.
- N. **Sign, Placard:** A sign not exceeding two (2) square feet which provides notices of a public nature, such as "No Trespassing" or "No Hunting" signs.
- O. **Sign, Portable:** A sign that is not permanent, affixed to a building, structure or the ground including signs supported on mobile chassis other than motor vehicles.
- P. **Sign, Projecting:** A sign which is attached directly to the building wall, and which extends more than fifteen (15) inches but not more than five (5) feet from the face of the wall.
- Q. **Sign, Roof:** A sign which is erected, constructed and maintained upon or above the roof of a building, or parapet wall and which is wholly or partially supported by the building.
- R. **Sign, Setback:** The minimum linear distance as measured from the street right-of-way line to the nearest part of the sign or advertising structure.
- S. **Sign, Wall:** A sign that is attached directly to a wall, mansard roof, roof overhang, parapet wall, or above a marquee of a building with the exposed face of the sign in a plane parallel to the building wall or to the surface on which it is mounted, and which projects not more than eighteen (18) inches from the building or structure wall, and which does not have any part of such sign or sign supports extending above the uppermost building line not including chimneys, flag poles, electrical or mechanical equipment, TV antennas or any other similar equipment and extensions.

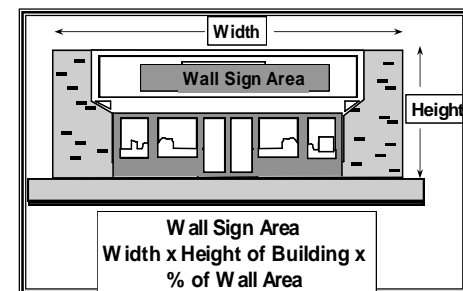
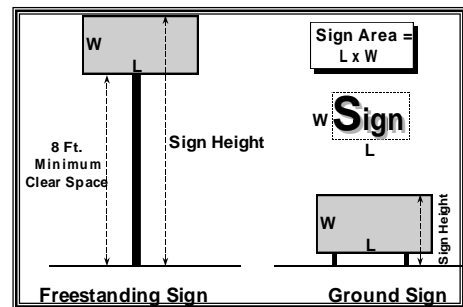
**SECTION 15.3 GENERAL PROVISIONS RELATED TO SIGNS**

**A. Permits**

1. No sign, name plate, marquee, or other advertising structure shall be erected, replaced, structurally altered, enlarged, illuminated, changed in purpose, or relocated without first obtaining a sign permit pursuant to this Chapter, except those signs specifically exempted by Section 15.3, D of this Ordinance.
2. An application for a sign permit shall be made to the Village Clerk, by the owner of the property on which the sign is proposed to be located or by his or her agent, or lessee.
3. The Zoning Administrator shall review all properly filed applications for sign permits and issue permits only for those applicants fully meeting the criteria established in this Ordinance and the Village Building Code. The Zoning Administrator shall approve or reject the application within a reasonable time period of receipt of a completed application submittal.
4. A schedule of permit fees shall be established and may be amended from time to time by resolution of the Village Council.

**B. Determination of Display Area and Height**

1. Except as noted in subparagraphs 3-4 below, the display area permitted for any sign shall be determined as the entire area within a square, rectangle, circle, triangle or parallelogram enclosing the extreme limits of writing, lighting, representation, emblem or any figure of similar character, together with any frame or other material forming an integral part of the display 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.
2. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign; except that where two (2) such faces are placed back to back and are at no point more than three (3) feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
3. The display area of signs painted directly on building wall surfaces shall be limited to that area within a circle, square, rectangle, triangle, or parallelogram enclosing the extreme limits of writing, letters or numbers.
4. Time and temperature displays including clock facings shall not herein be counted toward the allowable sign display area.
5. The height of a sign shall be measured to the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at



the base of the sign. Berms or other supporting measures for any sign shall be included in the computation for height.

6. Buildings with multiple tenants
  - a. The sign areas for wall signs, marquee signs, projecting signs, and awning signs shall be determined by taking that portion of the front wall of the building, applicable to each tenant space, and computing sign requirements for that portion of the total wall.
  - b. In the case of a corner lot, the wall area adjacent to the tenant space on the second street frontage shall be used to calculate the sign area for a second wall sign, awning sign, or projecting sign.
  - c. Each sign shall be attached to the same wall which is used to determine its size.

C. Prohibited Signs

1. Any sign not expressly permitted is prohibited, including all signs noted in this subsection.
2. Roof signs: For the purpose of this Chapter, a sign that is mounted on a mansard roof, roof overhang, parapet wall, above a marquee, or on a wall with a roof below, shall not be considered as a roof sign, but shall instead be considered as a wall sign for that side of the building, provided that no part of such sign extends above the uppermost building line not including chimneys, flag poles, electrical, mechanical equipment, TV antennas and other similar equipment and extensions.
3. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light or intermittent lights resembling the flashing lights customarily used in traffic signals, or police, fire, ambulance, or rescue vehicles, or lights so bright as to be blinding or distracting to a vehicle driver. However, variable time-temperature signs and intermittent electronic message boards may be permitted, provided each message shall not change more often than once every three (3) seconds.
4. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
5. No sign shall use the words, "Stop," "Danger," or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse a vehicle driver.
6. Billboards either as on or off-premise signs.
7. Any sign which obstructs the ingress or egress from a required door, window, or other required exit.
8. Signs located in the right-of-way of public streets or highways, except as may otherwise be permitted by the agency or governmental jurisdiction having jurisdiction over such right-of-way which includes review and approval by the Village of Fowler, or as otherwise may be permitted by this Chapter.  
(AMENDED 10/10/11)

D. **Exempt Signs:** The following signs are permitted on premise with permission of the landowner without a written sign permit.

1. Real estate signs on premise for property to be sold or leased.
2. Building construction signs.

3. Political signs.
  4. Placards and directional signs, not exceeding six (6) square feet in display area on each side.
  5. Signs identifying a builder's address and/or the names of the occupants, but not advertising an occupation or business and not exceeding two (2) square feet in display area on each side.
  6. Historic markers, signs identifying the name of a building or date of erection of a structure and official notices of any court or public agency not exceeding six (6) square feet in display area on each side.
  7. Incidental signs located on the premises of a customary agricultural operation as defined in this Ordinance which identify and advertise, name of a farm, the operator's name, seed, fertilizer, herbicide, pesticide, feed, feed supplements, livestock, test plots, farm organizations, awards, and similar agricultural activities, including seed, feed, fertilizer, herbicide, and pesticide dealers, but excluding equipment and implement dealers and related repair facilities. Such signs shall not exceed thirty-two (32) square feet in total display area including all such signs.
  8. Signs identifying the owner, operator, or name of a customary agricultural operation when located on agricultural buildings without display area limitations.
  9. Traffic control, directional, warning, or informational signs when authorized by a public agency having appropriate jurisdiction which conforms to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
  10. Flags, pennants, or banners bearing the official insignia of a nation, state, county, municipality, or educational institution not to exceed fifty (50) square feet in display area on each side and not used for the purposes of advertisement.
- E. **Residential Subdivisions:** Provided below is a list of additional regulations applicable to ground signs and decorative walls for residential subdivisions (see also Section 15.5).
1. Subject to the provisions of this Chapter, a sign identifying entrances to a residential subdivision within the Village may be permitted. Such signs shall be permitted as noted in Section 15.5, provided that they will not, by reason of their size, location, construction, or manner of display, endanger persons or property, cause a traffic hazard, be incompatible with adjoining property use, and shall harmonize with aesthetic considerations of the subdivision.
  2. The location of subdivision identification signs may be within the public street right-of-way, but not in the traveled portion thereof for vehicular traffic. Written approvals of proposed sign placement and location shall first be obtained from appropriate Village or County Officials.
  3. All such signs shall be maintained in good condition and be visually attractive. The immediate area surrounding the sign shall be landscaped.
  4. Maintenance of all signs shall be at the expense of the owner, or owners, of the signs, which may be the subdivision property owners association, proprietor of the plat or other responsible person or entity.
  5. The owner(s) of such signs shall obtain liability insurance coverage for injury to persons and damage to property, arising out of their ownership, use or maintenance, in limits suitable to the Village. Such insurance shall be primary to all other insurance coverage, shall include the Village as a named insured, and

shall be maintained at all times while the sign is located within the public street right-of-way. Proof of insurance shall be furnished to the Village.

6. As a condition of approval of the placement of subdivision signs in the public street right-of-way the owner(s) of the sign shall enter into an agreement with the Village of Fowler in which the owner(s) covenants to hold the Village harmless from any injury to persons and/or property damage arising out of the ownership, use and maintenance of the signs, and to indemnify the Village for any injury and/or damage it may sustain by reason of such ownership, use or maintenance, including costs and attorney's fees.
7. Removal and replacement of such signs shall be by application to the Zoning Administrator. Approval shall be granted by the Zoning Administrator unless safety conditions, sign modifications, utility placement or relocation, street widening or relocation, need of other municipal improvements, or other such changing conditions occur which may for reasons of public health, safety, and welfare make replacement impractical. The Village may require removal of such signs in the public right-of-way, at the owner's expense in any such cases where the public health, safety, or welfare is adversely affected by the continued existence of the sign in its location.

#### **SECTION 15.4 SIGNS PERMITTED IN ANY ZONING DISTRICT**

- A. **Construction signs:** Signs identifying contractors, architects, builders, or owners name during the period of construction are permitted subject to the following restrictions:
  1. Such signs shall not exceed fifty (50) square feet in display area on each side and eight (8) feet in height.
  2. Signs designating the future site of a subdivision shall not exceed thirty-two (32) square feet in display area on each side.
  3. Construction signs shall not be erected until a building permit has been issued for the project which is the subject of the proposed sign and construction activity has begun.
  4. Signs must be setback at least fifteen (15) feet from the front property line.
  5. Construction signs shall be removed within fifteen (15) days of the issuance of any Occupancy Permit for any building or structure which is the subject of the construction sign.
- B. **Directional signs:** These signs are permitted subject to the following restrictions:
  1. A directional sign may contain a logo of an on-premises establishment, but no advertising copy.
  2. No such sign shall exceed six (6) square feet in area or four (4) feet in height.
  3. Directional signs shall be limited to traffic control functions.
- C. **Incidental signs:** Signs pertaining to any conforming activity being conducted on the premises are permitted in any District, subject to the following restrictions:
  1. No individual sign shall exceed six (6) square feet in area.
  2. Only those signs which, in the opinion of the Zoning Administrator are necessary to indicate entrances, exits, safety precautions, including identifying logos without text, and other such incidental language shall be permitted.



**SECTION 15.5      NON-CONFORMING SIGNS, ILLEGAL SIGNS, AND SIGNS  
ACCESSORY TO NON-CONFORMING USES**

- A. Every permanent sign which does not conform to the height, size, area, or location requirements of this section as of the date of the adoption of this Ordinance, is hereby deemed to be non-conforming.
- B. Non-conforming signs may not be altered, expanded, enlarged, or extended; however, non-conforming signs may be maintained and repaired so as to continue the useful life of the sign.
- C. For purposes of this Chapter, a non-conforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of non-conforming use. If a sign is nonconforming in its setback, this Section shall not apply, and the sign may not be replaced.
- D. Any non-conforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if the cost of reconstruction will constitute more than fifty (50) percent of the value of the sign on the date of loss.
- E. Any sign which for a period of ninety (90) days or more no longer advertises a bona fide business conducted, service performed, or product sold, shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator. This does not include activities that operate on a seasonal basis, such as an ice cream stand, unless it is clear that the use has been abandoned.
- F. A sign, accessory to a non-conforming use, may be erected in the Village in accordance with the sign regulations for the subject zoning district.

**SECTION 15.6 SIGN REQUIREMENTS FOR INDIVIDUAL ZONING DISTRICTS**

Sign requirements for specific zoning districts are contained in the following tables.

<b>RESIDENTIAL ZONING DISTRICTS - PERMITTED SIGNS</b>	
<b>Ground signs for manufactured home parks, multiple family complexes, or other non-residential uses allowed in the District</b>	
Number	1 per major entrance
Size	No greater than 32 square feet
Location	Minimum of 1/2 of the front setback required for main buildings and a minimum of 15 feet from any side or rear property line
Height	No higher than 8 feet
<b>Ground signs and decorative walls for residential subdivisions (see also Section 15.3, E)</b>	
Number	1 per street entrance
Size	No greater than 75 square feet (sign size only)
Location	Within a public street right-of-way, outside the traveled portion of the roadway, unless permission from the owner of the property on which the sign is located grants permission. In this instance, the sign may be setback no more than 10 feet from the public right-of-way.
Height	No higher than 8 feet
<b>Wall signs for home occupations</b>	
Number	1 per lot or parcel
Size	No greater than 2 square feet
Location	On wall of house facing street and non-illuminated
<b>Wall signs for non-residential uses</b>	
Number	1 per street frontage
Size	No greater than 5% percent of the wall area to which the sign is affixed
Location	On wall of building facing street
<b>Political signs</b>	
Number	1 per issue or candidate per lot or parcel
Size	No greater than 6 square feet
Location	Minimum of 15 feet from any side or rear property line and no closer than the street right-of-way
Height	No higher than 6 feet

<b>RESIDENTIAL ZONING DISTRICTS - PERMITTED SIGNS</b>	
<b>Real estate signs</b>	
Number	1 per lot or parcel
Size	No greater than 6 square feet for lots or parcels under 1 acre; 32 square feet for vacant lots or parcels over 1 acre
Location	Minimum of 15 feet from any side or rear property line and no closer than the street right-of-way
Height	No higher than 6 feet

<b>(C-1) CENTRAL BUSINESS DISTRICT - PERMITTED SIGNS</b>	
<b>Wall signs or projecting signs</b>	
Number	1 per street frontage plus 1 per side facing a parking lot to identify the location of any public entrance
Size	Street frontage - no greater than 10% percent of the wall area to which the sign is affixed; Parking lot frontage - no greater than 5% percent of the wall to which the sign is affixed
Location	On wall of building facing street and wall facing public or private parking area
Height	Projecting sign: Minimum clear space of 8 feet from bottom of sign and not higher than the roof line of the building
<b>Ground sign or freestanding sign, when no projecting signs are used</b>	
Number	1 street frontage (provided the frontage meets the required lot width for the district in which it is located), except that only 1 ground sign or 1 freestanding sign shall be permitted per street frontage
Size	No greater than 50 square feet per sign
Location	Minimum of 5 feet from any property line or adjacent building
Height	Ground sign: No higher than 8 feet; Freestanding sign: No higher than 20 feet
<b>Political signs</b>	
Number	1 per issue or candidate per lot or parcel
Size	No greater than 6 square feet
Location	Minimum of 5 feet from any property line or adjacent building
Height	No higher than 6 feet
<b>Real estate signs</b>	
Number	1 per lot or parcel
Size	No greater than 16 square feet
Location	Minimum of 5 feet from any property line or adjacent building and no closer than the street right-of-way
Height	No higher than 6 feet

<b>(C-1) CENTRAL BUSINESS DISTRICT - PERMITTED SIGNS</b>	
<b>Marquee signs</b>	
Number	1 per street frontage
Size	No greater than 50 square feet
Location	On face of marquee
Height	Minimum clear space of 8 feet from bottom of marquee
<b>Awning signs</b>	
Number	1 per awning face
Size	No greater than 20% percent of any awning face to which the sign is affixed
Location	On face of awning
Height	Minimum clear space of 8 feet from bottom of awning
<b>Portable signs</b>	
Number	1 per lot or parcel limited to a total display period of 90 days, in any 365 day period.
Size	No greater than 32 square feet
Location	No closer than the street right-of-way
Height	No higher than 6 feet
<b>(C-1) CENTRAL BUSINESS DISTRICT - PERMITTED SIGNS</b>	
<b>Wall signs or projecting signs</b>	
Number	1 per street frontage plus 1 per side facing a parking lot to identify the location of any public entrance
Size	Street frontage - no greater than 10% percent of the wall area to which the sign is affixed; Parking lot frontage - no greater than 5% percent of the wall to which the sign is affixed
Location	On wall of building facing street and wall facing public or private parking area
Height	Projecting sign: Minimum clear space of 8 feet from bottom of sign and not higher than the roof line of the building
<b>Ground sign or freestanding sign, when no projecting signs are used</b>	
Number	1 street frontage (provided the frontage meets the required lot width for the district in which it is located), except that only 1 ground sign or 1 freestanding sign shall be permitted per street frontage
Size	No greater than 50 square feet per sign
Location	Minimum of 5 feet from any property line or adjacent building
Height	Ground sign: No higher than 8 feet; Freestanding sign: No higher than 20 feet
<b>Political signs</b>	
Number	1 per issue or candidate per lot or parcel

<b>(C-1) CENTRAL BUSINESS DISTRICT - PERMITTED SIGNS</b>	
Size	No greater than 6 square feet
Location	Minimum of 5 feet from any property line or adjacent building
Height	No higher than 6 feet
<b>Real estate signs</b>	
Number	1 per lot or parcel
Size	No greater than 16 square feet
Location	Minimum of 5 feet from any property line or adjacent building and no closer than the street right-of-way
Height	No higher than 6 feet
<b>Marquee signs</b>	
Number	1 per street frontage
Size	No greater than 50 square feet
Location	On face of marquee
Height	Minimum clear space of 8 feet from bottom of marquee
<b>Awning signs</b>	
Number	1 per awning face
Size	No greater than 20% percent of any awning face to which the sign is affixed
Location	On face of awning
Height	Minimum clear space of 8 feet from bottom of awning
<b>Portable signs</b>	
Number	1 per lot or parcel limited to a total display period of 90 days, in any 365 day period.
Size	No greater than 32 square feet
Location	No closer than the street right-of-way
Height	No higher than 6 feet

<b>(C-2) COMMERCIAL DISTRICT - PERMITTED SIGNS</b>	
<b>Ground Signs</b>	
Number	1 per street frontage (provided the frontage meets the required lot width for the district in which it is located), except that only 1 ground sign or 1 freestanding sign shall be permitted per street frontage
Size	No greater than 50 square feet
Location	Minimum of 15 feet from any side or rear property line, minimum of 5 feet from the street right-of-way line
Height	No higher than 8 feet

<b>(C-2) COMMERCIAL DISTRICT - PERMITTED SIGNS</b>	
<b>Freestanding signs</b>	
Number	1 street frontage (provided the frontage meets the required lot width for the district in which it is located), except that only 1 ground sign or 1 freestanding sign shall be permitted per street frontage
Size	No greater than 50 square feet
Location	Minimum of 15 feet from any side or rear property line, minimum of 5 feet from the street right-of-way line
Height	No higher than 20 feet, except when the front setback of the sign exceeds 30 feet 1 additional foot in height shall be allowed for each additional foot in setback beyond 30 feet
<b>Wall signs</b>	
Number	1 per street frontage
Size	No greater than 10% percent of the wall area to which the sign is affixed.
Location	On wall of building facing street
<b>Political signs</b>	
Number	1 per issue or candidate
Size	No greater than 6 square feet
Location	Minimum of 15 feet from any side or rear property line
Height	No higher than 6 feet
<b>Real estate signs</b>	
Number	1 per lot or parcel
Size	No greater than 16 square feet
Location	Minimum of 10 feet from the street right-of-way line, 15 feet from all other property lines
Height	No higher than 6 feet
<b>Portable signs</b>	
Number	1 per lot or parcel limited to a total display period of 90 days, in any 365 day period.
Size	No greater than 32 square feet
Location	Minimum of 1/2 the required setback for the main building from any property line and street right-of-way line
Height	No higher than 6 feet

<b>(I) INDUSTRIAL DISTRICT - PERMITTED SIGNS</b>	
<b>Ground signs</b>	
Number	1 per lot or parcel

<b>(I) INDUSTRIAL DISTRICT - PERMITTED SIGNS</b>	
Size	No greater than 32 square feet
Location	Minimum of 5 feet from the street right-of-way line, 15 feet from all other property lines
Height	No higher than 6 feet
<b>Wall signs</b>	
Number	1 per street frontage
Size	No greater than 5% percent of the wall area to which the sign is affixed
Location	On wall of building facing street
<b>Political signs</b>	
Number	1 per issue or candidate per lot or parcel
Size	No greater than 6 square feet
Location	Minimum of 5 feet from the street right-of-way line, 15 feet from all other property lines
Height	No higher than 6 feet
<b>Real estate signs</b>	
Number	1 per lot or parcel
Size	No greater than 16 square feet
Location	Minimum of 5 feet from the street right-of-way line, 15 feet from all other property lines
<b>Billboard signs</b>	
Number	1 per lot or parcel
Size	No greater than 150 square feet
Location	Minimum of 35 feet from the street right-of-way line, no closer than 50 feet to any other property line, and no closer than 1,500 feet to any other billboard on the same or opposite side of the street.
Height	No higher than 20 feet





## Chapter 16

# ZONING BOARD OF APPEALS

### SECTION 16.1 PURPOSE

- A. The role of the Zoning Board of Appeals (ZBA) as authorized by Michigan's zoning statutes is a unique and important one. The ZBA is empowered to hear and decide appeals from any person or board aggrieved by an administrative decision. An administrative decision is one made by a zoning administrator or the planning commission, or by a legislative body acting in an administrative capacity. The ZBA has significant authority relative to interpreting and ultimately enforcing the legislative intent of zoning regulations. This "quasi-judicial" responsibility is separate from the duties carried out by the Village Council, Planning Commission, Zoning Administrator, and others involved in zoning.
- B. No other body or individual in the Village has the power to waive or vary the requirements of the community's zoning law. For this reason, the exercise of that authority must be carried out in conformance with prescribed procedures to ensure to the extent possible that there is uniform application of the zoning laws throughout the community.
- C. Obtaining a variance from the Village's zoning laws should be difficult, at best, to accomplish. Only the rarest of situations should qualify and each must satisfy a number of prescribed tests in order to be granted relief from the regulations that are ultimately intended to protect the general health, safety, and welfare of the community. Each time a waiver of the rules is granted, there is potential to erode the integrity of the community's zoning regulations.
- D. As with all the Village's boards, commissions, and committees, the Zoning Board of Appeals is often asked to make tough choices. It is sometimes difficult to remain entirely objective, not allowing emotion, compassion, and personal preferences to influence a decision. But as a quasi-judicial body, the ZBA must not be persuaded by likes and dislikes, personalities, or personal feelings. Whether the ZBA agrees or disagrees with any provision in the ordinance is irrelevant. Decisions must be based solely on the applicable provisions of the zoning ordinance and the applicant's ability to qualify for some relief from those provisions based on the standards of the ordinance.
- E. Unless caution is exercised, actions of the ZBA may sometimes have the effect of amending the ordinance and violating the intent of its provisions. The ZBA cannot amend the zoning ordinance, including providing rezonings or text changes. The Board must function solely to provide relief for the rare exception situation where conformance to the zoning requirements is either impossible or would be extremely difficult. Secondly, the Board must be the "arbiter" of disputes or questions regarding the enforcement or interpretation of the ordinance provisions. This job must be undertaken

with a genuine commitment to uphold the intent and spirit of the Village zoning regulations.

## **SECTION 16.2 CREATION AND MEMBERSHIP**

- A. The Village Council consisting of the President and 6 Trustees, is hereby established as the Zoning Board of Appeals and shall perform the duties and exercise the powers as provided in P.A. 110 of 2006, and in such a way that the objectives of this Ordinance shall be observed.
- B.
  - 1. One member shall be a member of the Planning Commission.
  - 2. The creation, membership, and reappointment of a Zoning Board of Appeals shall meet the requirements of the Michigan Zoning Enabling Act of 2006.
- C. A member of the Zoning Board of Appeals who also serves a member of the Planning Commission must abstain from voting on a matter being considered by the Zoning Board of Appeals that he or she voted on as a member of the Planning Commission where the facts and circumstances associated with the particular decision under review make abstention necessary to satisfy the due process requirement of impartial decision making.

[AMENDED, 3/10/08]

## **SECTION 16.3 ORGANIZATION**

- A. **Rules of Procedure:** The Zoning Board of Appeals shall adopt rules and/or procedures for the conduct of its meetings and the performance of its powers and duties. The procedures shall be in accord with the provisions of this Ordinance and applicable State law. The Board shall annually elect a chairperson, a vice chairperson, and a secretary.
- B. **Meeting Times:** Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board may specify in its rules of procedure. The applicable provisions of Public Act 267 of 1976, as amended, MCLA 15.261 et seq. (Open Meetings Act) shall apply.
- C. **Quorum:** A majority of the total membership of the Board shall comprise a quorum.
- D. **Minutes:** Minutes shall be kept of each meeting and the Zoning Board of Appeals shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon each appeal case. All meetings and records shall be open to the public. All minutes shall be filed in the office of the Village Clerk. The Village Clerk, or the Clerk's agent, shall act as recording secretary to the Zoning Board of Appeals, including recording the minutes, publishing legal notices, and providing notices to property owners and others required by law.
- E. **Application to Zoning Board of Appeals:** Applications shall not be accepted unless all of the following information is submitted:
  - 1. A completed application form (provided by the Village);

2. An accurate, scaled site plan (if appropriate) with enough information to clearly indicate the nature of the issue being considered. The Zoning Administrator shall determine the completeness of such plans.
3. An application fee as may be determined by the Village Council from time-to-time.
4. A written explanation from the applicant indicating why the application meets the applicable review standards of this Chapter.

F. Public Hearing:

Upon receipt of an application as required by this Chapter, the Zoning Board of Appeals shall fix a reasonable date, time, and place for a hearing and shall publish a notice of hearing in a newspaper of general circulation within the Village, and shall send such notice to the applicant not less than fifteen (15) days before the hearing date. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property involved in the appeal and to the occupants of all structures located within three hundred (300) feet of the property, including properties and occupants located outside of the Village. The Board may adjourn any meeting held in order to allow the obtaining of additional information, or to provide further notice as it deems necessary. If the name of an occupant is not known, the term "occupant" may be used in making notification. [AMENDED 3/10/08]

## **SECTION 16.4 POWERS AND DUTIES**

The Zoning Board of Appeals shall hear only those matters which it is authorized to hear by Public Act 110 of 2006, and render its decision based upon the criteria contained in this Ordinance. The Zoning Board of appeals shall hear the following applications in accordance with the indicated standards:

A. Administrative Appeals

1. The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is an error in fact, judgment, procedure, or interpretation in any order, requirement, permit, or decision made by the Zoning Administrator or other body enforcing the provisions of this Ordinance.
2. Site Plan Review:
  - a. The Zoning Board of Appeals shall review and make final determination on properly filed appeals from action by the Planning Commission with respect to Site Plan Reviews conducted pursuant to Chapter 11 of this Ordinance.
  - b. The Zoning Board of Appeals has the power to sustain, reverse or remand for further consideration the decision of the Planning Commission when it is found that the decision is inconsistent with the provisions of this Ordinance or that there was an error of fact involved in the decision. In making this determination, the Zoning Board of Appeals shall examine the application and all accompanying data as well as the records of the actions with respect to the Site Plan Review.

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B. Interpretations

1. The Zoning Board of Appeals shall have the power to make an interpretation of the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one (1) meaning. In deciding upon the request, the Board shall insure that its interpretation is consistent with the intent and purpose of this Ordinance and the Chapter in which the language in question is contained.
2. The Zoning Board of Appeals may also make a determination of the precise location of the boundary lines between zoning districts in accordance with Chapter 4 of this Ordinance, and records, surveys, maps, and aerial photographs.
3. The Zoning Board of Appeals may determine the classification of any use of land not specifically mentioned as a part of the provisions of any district, so that it conforms to a comparable permitted or prohibited use of land in accordance with the purpose and intent of each district.
4. The Zoning Board of Appeals may issue a determination of the off-street parking and loading requirements of a use of land not specifically mentioned in Chapter 14 of this Ordinance such that it conforms to a comparable use of land.

C. Variances

1. The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.
2. **Non-use Variance (practical difficulty):** A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of **practical difficulty** in the official record of the hearing and that all of the following conditions are met:
  - a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
    - (1) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance; or
    - (2) By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
    - (3) By reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
    - (4) Any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary.

- b. That the condition or situation of the specific parcel of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
- c. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- d. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- e. The variance will not impair the intent and purpose of this Ordinance.
- f. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.

[AMENDED 3/10/08]

**SECTION 16.5 VOTING REQUIREMENTS, EFFECT OF VARIANCES,  
RESUBMISSION**

- A. **Non-Use Variance, Interpretation or Administrative Appeal:** The concurring vote of a majority of the entire membership of the Zoning Board of Appeals shall be necessary to decide in favor of the applicant for a non-use variance or other matter upon which the Board is required to pass.
- B. **Finality of Decisions:** All decisions of the Zoning Board of Appeals shall become final when the Board certifies its decision in writing or approves the minutes of its decision.
- C. **Variance Time Limit:** Every non-use variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized by such variance has been commenced within six (6) months after the granting of the variance.
  1. An applicant may, at no cost, request up to one (1) six (6) month extension of said variance from the Zoning Board of Appeals, if applied for in writing prior to the expiration of the variance approval.
  2. The Zoning Board of Appeals may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.
- D. **Resubmission:** No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the denial, except on the grounds of newly discovered evidence or proof of changed conditions found, upon inspection by the Board, to be valid.

[AMENDED 3/10/08]

**SECTION 16.6      CONDITIONS OF APPROVAL**

The Zoning Board of Appeals may impose, in writing, specific conditions with an affirmative decision pursuant to PA 110 of 2006. The breach of any such condition shall be a violation of this Ordinance. [AMENDED 3/10/08]

**SECTION 16.7      BONDING**

The Zoning Board of Appeals may require that a bond be furnished to insure compliance with certain conditions imposed with the granting of any appeal or variance.

**SECTION 16.8      CERTIFICATION OF COMPLIANCE**

The Zoning Administrator shall certify whether all conditions and other requirements of the variance have been fulfilled, as a precondition to the issuance of any permit required for development, construction, occupancy or use within the area governed by the variance.

## Chapter 17 ADMINISTRATION AND ENFORCEMENT

### SECTION 17.1 RESPONSIBILITY

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

### SECTION 17.2 ZONING ORDINANCE AMENDMENTS, INITIATION

- A. **Time frame for Application Submittal** – All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least thirty (30) days prior to the first consideration by the Village Planning Commission. [AMENDED 3/10/08]
- B. **Initiation of Amendments and Application Requirements** - Requests for amendments to the Zoning Ordinance may be initiated in writing by the owner of the property requested for rezoning, or his/her authorized representative. Requests may also be made by the Village Planning Commission or the Village Council through official action of the Commission or Council taken at a public meeting which has been properly noticed as required by law.

In the case of an amendment requested by a property owner or his/her authorized representative, the request shall include the following:

1. Completion of a Zoning Amendment Application as provided by the Zoning Administrator. Said application to include:
  - a. The name and address of the person making the request and all persons having a legal or equitable interest in any land which is requested to be rezoned.
  - b. In the case of a text amendment, the specific section to be amended and the proposed text change.

- c. If the requested amendment requires a change in the zoning map, the common address, legal description of the area requested for change, and present and proposed district classifications shall be provided. The applicant shall also indicate by map form, the location of the property requested for rezoning.
- d. If, in the opinion of the Zoning Administrator, Planning Commission, or Village Council, the information submitted does not provide a clear delineation of the specific area to be rezoned, said Zoning Administrator, Planning Commission, or Village Council shall require the applicant to submit a boundary survey of the property in question. Said survey to include a written legal description and drawing of the area to be rezoned. The boundary survey, including legal description and map, shall be completed by a Land Surveyor registered by the State of Michigan.
- e. The nature of the amendment shall be fully identified in writing.
- f. Payment of all fees as required by the Village of Fowler.

### **SECTION 17.3 AMENDMENT PROCEDURE**

After submission of the application and fee, amendments to this Ordinance shall be processed as provided for in the Zoning Enabling Act, Public Act 110 of 2006. [AMENDED 3/10/08]

### **SECTION 17.4 CONSIDERATION OF AMENDMENT**

The following guidelines shall be used by the Planning Commission and Village Council pursuant to consideration of amendments to the Zoning Ordinance:

- A. Text Amendment.
  1. The proposed text amendment would correct an error in the Ordinance.
  2. The proposed text amendment would clarify the intent of the Ordinance.
  3. The proposed text amendment would address changes to the state legislation, recent case law or opinions from the Attorney General of the State of Michigan.
  4. The proposed text amendment would promote compliance with changes in other Village Ordinances and County, State or Federal regulations.
  5. In the event the amendment will add a use to a district, said use shall be fully consistent with the character of the range of uses provided for within the district.
  6. The amendment shall not result in problems of incompatibility among land uses within a zoning district, or among adjacent districts.
  7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
  8. As applicable, the proposed change shall be consistent with the Village's ability to provide adequate public facilities and services.
  9. The proposed change shall be consistent with the Village's desire to protect the public health, safety, and welfare of the community.
- B. Map Amendment. (Rezoning)



1. **Consistency** with the goals, policies and future land use map of the Village of Fowler. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.
2. **Compatibility** of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district. The potential uses allowed in the proposed zoning district shall be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
3. **Capability** of the existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting to sufficiently support those uses provided for within the proposed zoning district classification.
4. Existing Village facilities and services including, but not limited to, police and fire protection, recreational facilities, educational facilities, and waste collection shall have sufficient capacity to support those uses provided for within the proposed zoning district classification.
5. The proposed change shall be governed by sufficient standards to ensure that the potential for problems of incompatibility between the proposed and adjoining districts shall be minimal.
6. The requested rezoning will not create an isolated and unplanned spot zone.
7. The proposed change shall not endanger the public health, safety, or welfare.
8. Other factors deemed appropriate by the Planning Commission.

#### **SECTION 17.5 CONSIDERATION OF AMENDMENT BY VILLAGE COUNCIL**

Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Zoning Enabling Act, Public Act 110 of 2006, the Village Council may hold an additional public hearing, if it considers it necessary, or may proceed to adopt or amend the proposed amendment. If the Village Council proposes to amend the amendment, then the procedures described in the Zoning Enabling Act, Public Act 110 of 2006, shall be followed. [AMENDED 3/10/08]

#### **SECTION 17.6 ZONING COMPLIANCE PERMITS**

- A. Unless otherwise exempted by this Ordinance, the construction, erection, alteration, expansion, moving, repair, or use of any land, building, or structure shall require receipt of a zoning permit and issuance of a certificate of zoning compliance. No building permit shall be issued for the construction, erection, alteration, expansion, moving or repair of any building or other structure until a certificate of zoning compliance has been issued therefor. Issuance of such a certificate shall indicate that the use and plans for which the permit is requested comply with this Ordinance.
- B. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure, or premises, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use as permitted under the terms of this Ordinance, until a certificate of zoning compliance shall have been issued hereunder by the Zoning Administrator. The certificate shall state that the building, structure, and lot and use thereof, conform to the requirements of this Ordinance.

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

### **SECTION 17.7 PERFORMANCE GUARANTEE**

- A. As a condition of approval of a site plan, special land use, planned unit development, variance, or other such zoning action, the Zoning Administrator, Planning Commission, Village Council, or Zoning Board of Appeals, as appropriate, may require a bond or other financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include but shall not be limited to roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, utilities and similar items.
- B. Performance guarantees shall be processed in the following manner:
  - 1. The applicant shall prepare an itemized cost estimate of the required improvements, which shall then be reviewed and approved by the Zoning Administrator. The amount of the performance guarantee shall be one-hundred (100) percent of the following costs:
    - a. Purchase and/or construction of improvements.
    - b. Installation of improvements.
    - c. Architectural and/or engineering design or related professional costs.
    - d. Reasonable amount for contingencies, but in no case less than five (5) percent of total costs for a-c above.
  - 2. The required performance guarantee shall be in the form of an irrevocable bank letter of credit, surety bond, or other form of guarantee acceptable to the party requiring said guarantee.
  - 3. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a certificate of zoning compliance for the subject development or activity.
  - 4. The Zoning Administrator, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.
  - 5. When all of the required improvements have been completed, the applicant shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall recommend to the Planning Commission, Village Council,

- or Zoning Board of Appeals, as appropriate, approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejections.
6. The Planning Commission, Village Council, or Zoning Board of Appeals, as appropriate, shall either approve, partially approve, or reject the improvements. The Zoning Administrator shall notify the applicant in writing of the action of the Planning Commission, Village Council, or Zoning Board of Appeals, as appropriate, within thirty (30) days after the official action of said Commission, Council, or Zoning Board of Appeals. Where partial approval is granted, the applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
  7. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

## **SECTION 17.8      ORDINANCE VIOLATIONS**

- A. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be in violation of this Ordinance shall be reported to the Zoning Administrator.
- B. After an order to correct the violation has been issued by the Zoning Administrator, the property owner (owner of the property upon which the violation is located) shall have thirty (30) days to correct the violation. If the violation cannot be corrected within this time, the Zoning Administrator may, with just cause, extend the correction period for an appropriate amount of time up to a period of six (6) months. The approved extension period shall be at the discretion of the Zoning Administrator.

In the event a longer period of time is required:

1. The Zoning Board of Appeals, upon petition, may grant up to six (6) additional months to correct the violation if conditions warrant such an extended period of time. The six (6) period shall commence at the end of the extended period as approved by the Zoning Administrator (as referenced above).
2. If the violation involves a special land use or planned unit development, the request for the extended period of time shall be made to, and approved by, the Village Council. Any violation not corrected within the required time frame shall be reported to the Village Council.

In all cases, a request for extending the period of time for correcting a violation shall be made by the applicant. Said request shall be in writing to the Zoning Administrator and shall include specific detail on why the violation occurred, the requested time frame for correcting the violation, and actions to be pursued by the land owner to ensure correction of the violation. The written request shall be delivered to the Zoning Administrator no less than twenty-one (21) days prior to the expiration of the extended time frame as originally approved by the Zoning Administrator.

In the event the Zoning Administrator determines the violation poses an imminent threat to the health, safety, and welfare of the occupants of the premises on which the

violation is located or to the general public, the Zoning Administrator may require that immediate measures be taken to correct the violation.

- C. Any person, firm, corporation, or organization who violates, disobeys, omits, or refuses to comply with any provisions of this Ordinance or lawful order of the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or Village Council issued in pursuance of this Ordinance shall be responsible for a civil infraction punishable by the sanctions as set forth below. Each day which a violation continues, may be deemed a separate infraction.
- D. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses, and other sanctions authorized under Act 12 through 26, Public Acts of Michigan of 1994.
- E. The Zoning Administrator, the Building Inspector, together with law enforcement officers, are authorized officials to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of this Ordinance.
- F. A violation of this Zoning Ordinance shall be a municipal civil infraction subject to a fine. Increased civil fines will be imposed for repeated violations that occur within a six (6) month period. Civil fines for first offenses, repeat first offenses and repeat second offenses will be established from time to time by the Village Council. The Village shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the Village pursuant to Chapters 83 and 87 of the Michigan Revised Judicature Act, as amended at the present time or in the future.

#### **SECTION 17.9 SEVERABILITY CLAUSE**

This Ordinance and the various Chapters, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is adjudged unconstitutional or invalid for any reason, by any Court of competent jurisdiction, 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 17.10 CONFLICTING PROVISIONS**

Where a provision of this Ordinance conflicts with a provision of another Ordinance, the strictest provision shall prevail.

#### **SECTION 17.11 SAVINGS CLAUSE**

- A. 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.

- B. 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, or offenses or acts committed prior to the effective date of this Ordinance, may be continued or instituted under and in accordance with provisions of the Ordinance in force at the time of such offense.

### **SECTION 17.12 REPEAL OF PREVIOUS ZONING ORDINANCE**

This Ordinance, when effective, repeals Ordinance No. 20 of the Village of Fowler Code of Ordinances, and all amendments, are now repealed.

### **SECTION 17.13 EFFECTIVE DATE**

This Ordinance is hereby adopted at a regular meeting of the Village Council held on the 9<sup>th</sup> day of September 2002, and shall be effective September 22<sup>nd</sup>, 2002.



## **Chapter 18 WIND ENERGY CONVERSION SYSTEMS**

[AMENDED 3/14/11]

### **SECTION 18.1 INTENT AND PURPOSE**

- A. It is the purpose of this Chapter to establish regulations and conditions for Wind Energy Conversion Systems which are applicable to all districts of this Ordinance unless otherwise indicated. This Chapter is intended to provide for the safe, effective, and efficient regulation of Small and Large Wind Energy Conversion Systems whether they are tower mounted or structure mounted.

### **SECTION 18.2 SMALL WIND ENERGY CONVERSION SYSTEMS (WECS).**

The following standards shall apply to all Small WECS as defined herein.

- A. Small WECS are permitted by right, subject to conditions, in all zoning districts regulated by the Village of Fowler Zoning Ordinance.
- B. A zoning compliance certificate (Section 18.2 O.) and all applicable permits required by the building official are required prior to construction (installation) of a Small WECS.
- C. For all zoning districts other than the C2 Commercial and the I Industrial Districts, the total height for a tower mounted Small WECS, which includes the tower and the rotor (blade), shall not be greater than thirty five (35) feet. The total height for a tower mounted Small WECS in the C2 Commercial and I Industrial Districts shall not be greater than sixty (60) feet. The total height shall be measured from the ground level at the base of the tower to the maximum vertical extension of the blade.
- D. The total height for a structure mounted vertical axis Small WECS shall not exceed fifteen (15) feet as measured from the highest point of the adjacent roof or structure to which it is attached, excluding chimneys, antennae or other similar features.
- E. The minimum site area for a tower mounted Small WECS shall be equal to the minimum lot area requirements of the zoning district in which the Small WECS is located plus any additional lot area required to meet setback requirements of this section.
- F. The minimum site area for a structure mounted Small WECS shall be equal to the minimal lot area requirements of the zoning district in which it is located.
- G. For structure mounted Small WECS, documentation shall be submitted by a registered design professional, with details pertaining to the structure's ability to sustain all loads imposed.

- H. Setbacks: A tower mounted Small WECS shall be set back a distance equal to one and one-half (1½) times the height of the tower measured from the top of its blade in vertical position from all adjoining property lines, easements, or rights-of-way, and no part of a Small WECS may extend into any adjacent yard or property unless an easement has been recorded for that purpose. A structure mounted Small WECS shall meet the setback requirements of the zoning district in which it is located.
- I. Ground Clearance: A tower mounted Small WECS must have a minimum ground clearance of twenty (20) feet between the lowest extension of the rotor blade and the average grade at the base of the structure.
- J. Noise: The sound pressure level shall not exceed 55 dB(A) measured at the property line or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
- K. Wind Turbine Structural Plans: A building permit application for a Small WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. If structure-mounted, an engineering analysis demonstrating compliance with the State Building Code and certified by a licensed professional engineer shall also be submitted.
- L. WECS Removal - The WECS owner shall advise the Village of discontinuance of WECS use or abandonment within sixty (60) days of such discontinuance or abandonment. Any WECS that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such WECS shall remove the same within ninety (90) days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned WECS within said 90 days shall be grounds for the Village to remove the WECS at the owner's expense.
- M. Structure mounted Small WECS shall meet the following additional requirements: shall not be attached to that portion of a structure facing a public road, may be attached to principal or accessory structures providing all other requirements of this section are met, shall not utilize guy wire supports, and may not contain commercial advertising.
- N. There may be more than one (1) tower and/or structures mounted Small WECS systems per lot or parcel if the total combined rated output of all turbines on the site does not exceed ten (10) ( kW) and the additional units are permitted by Special Land Use approval.
- O. The Zoning Compliance Certificate Permit application for any Small WECS must include:
1. A project summary, including: (1) a general description of the project, including its approximate name plate capacity, the potential equipment manufacturer(s), type(s), of the WECS(s), number of WECS(s) and capacity of WECS, the maximum height and diameter of the WECS rotors, a professional analysis of the



- shadow flicker impact, the general location of the project; (2) a description of the applicant, owner and operator, including their respective business entities.
  2. The name(s), address(s) and phone number(s) of the applicant(s) and property owner(s).
  3. A description for the location of the WECS tower and/or structure mounted system and the location of property lines of adjoining property owners.
  4. A site plan for the installation of the WECS, showing location of each WECS tower, primary structures, property lines, setback lines, height, ancillary equipment and layout of all structures within geographical boundaries of any applicable setbacks.
  5. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of this Ordinance.
  6. Any other information required to demonstrate compliance with this Ordinance or any other Ordinance or law of the Village, County, State, or Federal Government.
- P. Small WECS system shall not utilize guy wires for support, shall not contain or display commercial advertising, and shall utilize non-reflective surfaces and neutral colors to the maximum extent feasible.

### **SECTION 18.3 LARGE WIND ENERGY CONVERSION SYSTEMS (WECS)**

The following standards shall apply to all Large Wind Energy Conversion Systems (WECS) as defined herein.

- A. Large WECS require a special land use permit, a zoning compliance certificate, and a building permit prior to construction/installation and operation.
- B. Large WECS are permitted by special land use only in the C2 Commercial and I Industrial Zoning Districts.
- C. The application for a special land use permit must be accompanied by:
  1. An evaluation prepared by certified professionals of the likely impact of the proposed WECS in the following areas:
    - a. Noise and vibration impacts at any property line.
    - b. Potential impact on wildlife, including native and migrating birds.
    - c. Shadow flicker and glare impacts on adjacent properties.
    - d. Aesthetic impact of the WECS on adjoining properties.
  2. The following information must be detailed to supplement the site plan required for a special use permit application:
    - a. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation.
    - b. Location and elevation of the proposed Large WECS.
    - c. Locations and dimensions of all existing structures and uses on the lot within three hundred (300) feet of the system.
    - d. Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius, on-site or off-site of the proposed Large WECS.

- e. Surrounding land use and structures, irrespective of height, within five hundred 500 feet of the Large WECS location.
3. Additional information required:
  - a. Standard drawings of the structural components of the Large WECS, including structures, tower, base and footings. A registered engineer shall certify drawings and any necessary calculations demonstrating that the system complies with all applicable local, state and federal building, structural and electrical codes.
  - b. Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site.
  - c. Registered engineer's certification of the design and safety for the proposed tower to withstand any high wind speeds, and that the Large WECS can be operated successfully on the subject property.
- D. Setbacks:

A Large WECS shall maintain a minimum setback of one and One-half times (1 ½) the total height of the tower to the top of the blade in its vertical position from any property line, easements, or rights-of-way, and no part of a Large WECS may extend into any adjacent yard or property unless an easement has been recorded for that purpose.
- E. Dimensions:
  1. A Large WECS shall not exceed a total tower and blade height of one hundred (100) feet.
  2. In all cases, the minimum height of the lowest position of the large WECS blade shall be at least thirty (30) feet above the ground.
  3. An approved Large WECS is exempt from the height restrictions of the Zoning District in which it is located.
  4. A Large WECS shall be located on a minimum site area of one (1) acre or larger plus any additional area required to meet the setback requirements of this section.
- F. Noise:

On-site Use wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
- G. General Siting and Design Standards:

A Large WECS shall meet all federal, state and local aviation requirements, which shall include, but not be limited to, air traffic warning lights or other marking lights, and shall be positioned to avoid undue visual impact on neighboring properties.
- H. Safety Measures:
  1. Each Large WECS shall be equipped with both manual and automatic controls to limit the rotation or speed of the rotor blade so it does not exceed the design limits of the rotor.

2. Each Large WECS shall be properly grounded to safely sustain natural lightning strikes.
  3. A Large WECS shall not include any sign or advertising of any kind, except for an informational sign no larger than two (2) square feet in area posted at the base of the tower, which shall contain the following information:
    - a. "WARNING: HIGH VOLTAGE";
    - b. Manufacturer's name;
    - c. Operator's name;
    - d. Emergency telephone number;
    - e. Emergency shutdown procedures.
- I. Radio and Television Interference:  
A Large WECS shall be designed and constructed so as not to cause radio and television interference.
- J. Removal of a Large WECS:  
The WECS owner shall advise the Village of discontinuance of WECS use or abandonment within sixty (60) days of discontinuance. Any WECS that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such WECS shall remove the same within ninety (90) days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned WECS within said 90 days shall be grounds for the Village to remove the WECS at the owner's expense. The Village may, as a condition of special use permit approval, require a financial guarantee in the form of a performance bond, cash deposit or irrevocable letter of credit to provide sufficient funds for the removal of an abandoned WECS and facilities associated therewith.

#### **SECTION 18.4 UTILITY SCALE WIND ENERGY SYSTEMS**

Utility Scale Wind Energy Systems are not permitted by the Village of Fowler Zoning Ordinance.

#### **SECTION 18.5 WIND ENERGY MONITORING STATION**

A Wind Energy Monitoring Station is permitted by right in all zoning districts, shall not exceed the maximum height permitted for any potential WECS permitted in that zoning district, shall require a building permit if required by the building official, and shall be removed within fourteen (14) months from the installation date

#### **SECTION 18.6 CONSTRUCTION CODES, TOWERS, INTERCONNECTION STANDARDS**

Small and Large WECS shall comply with all applicable state construction and electrical codes and local building permit requirements. WECS shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, and the Michigan Tall Structures Act.