

Article 3
General Provisions

**ARTICLE 3
GENERAL PROVISIONS**

SECTION 3.1: PURPOSE

3.1.1 Purpose: It is the purpose of this Article to establish general regulations for lots, uses, and activities that relate to accessory uses, dimensional standards, various exceptions, and aspects of land use and design that are not addressed in other Articles of this Zoning Ordinance. These provisions will help prevent environmental degradation, poor health or safety conditions, and nuisance-like effects on abutting properties.

SECTION 3.2: THE EFFECT OF ZONING

3.2.1 The Effect of Zoning: Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance. Only uses specifically permitted by right or by special approval use permit in a particular zoning district may be established on a parcel. All other uses may be permitted only if the Ordinance has been amended to permit them or by means of approval of a Planned Unit Development (PUD) by the Village Council.

3.2.2 Zoning Runs with the Land: Zoning approval runs with the land, not with the property owner.

SECTION 3.3: ACCESSORY BUILDINGS AND STRUCTURES

3.3.1 Purpose: This section regulates buildings and structures that are incidental to principal uses and buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks. The standards of this section apply to all accessory buildings and structures unless otherwise expressly stated.

3.3.2 General Standards:

- A. No accessory structure shall be erected, constructed, or placed upon a lot without a principal structure.
- B. Accessory buildings shall be architecturally consistent with the primary structure on the lot.
- C. Where any accessory building or structure is attached to a principal building, such accessory building or structure shall be considered part of the principal building and shall be subject to and must conform to all regulations of this Ordinance applicable to the main building regardless of whether the accessory building was constructed as a detached building and then attached.

3.3.3 Placement on Lot:

- A. Location in Yards: All accessory buildings/structures shall be located in the rear or side yard of the lot except when attached to the main building in one- and two-family dwellings.
- B. Relationship to the Main Building: No detached accessory building/structure shall be located closer than six (6) feet to any main building.

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- C. Accessory Building/Structure Setback from Rear and Interior Side Lot Lines: No detached accessory building shall be located closer than six (6) feet to any interior side or rear lot line.
- D. Detached Accessory Building/Structure Setback – Alleys: Where the rear lot line is coterminous with an alley right-of-way, a detached accessory building shall not be closer than six (6) feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.
- E. Detached Accessory Building/Structure Side Setback on Corner Lot:
 - 1. When an accessory building is located on a corner lot, the side setback for said building shall be ten (10) feet.
 - 2. When an accessory building is located on a reversed corner lot, the side lot line of which is substantially a continuation of the front lot line on the lot to its rear, the side setback for said building shall be equal to setback of the residence/building of the adjoining lot or the front yard setback of the district, whichever is less.
- F. Accessory Building/Structure on Waterfront Lots:
 - 1. Accessory buildings/structures on waterfront lots shall adhere to the requirements in Article 15.
 - 2. Detached garages are permitted in the front yard (street side) of waterfront lots and shall adhere to the setbacks of the district.
- G. Accessory Building/Structure on Through Lots: The setback of an accessory building on a through lot shall be equal to the largest setback of the principal structure of each adjoining lot along a common street or equal to the setback of the district in which it is located, whichever is less.

3.3.4 Accessory Building/Structure Size:

- A. Residential accessory buildings shall not occupy more than twenty-five (25) percent of a required rear yard.
- B. In a residential district, the combined area of all accessory buildings on a zoning lot shall not exceed the ground floor area of the principal building or a maximum square footage of twelve-hundred (1,200) square feet, whichever is less.

3.3.5 Accessory Building/Structure Height: No detached accessory building in R- 1, R-2, RMF, and A-R districts shall exceed the height of the principal building.

3.3.6 Gazebos:

- A. A gazebo must be an open (“see through”) structure with no length or width dimension exceeding fifteen (15) feet; the height must not exceed fifteen (15) feet.
- B. Gazebos are permitted in the front yard, rear, or side yards and must meet the side and rear setback requirements of the zoning district. Gazebos must meet the front yard setback requirements for a primary structure of the district in which it is located.
- C. A minimum total front yard depth of fifty (50) feet is required for a gazebo to be placed in the front yard. The gazebo shall not occupy more than ten (10) percent of a contiguous yard which is not separated by a driveway.

3.3.7 Nontraditional Storage Facilities: Truck bodies, school bus bodies, mobile homes, travel trailers, or other items built and intended for other uses shall not be used as permanent accessory buildings. Semi-trailers may be used as temporary storage for commercial and industrial uses in the commercial and industrial districts in the rear yard only. In a commercial zone, semi-trailers used as temporary storage must be screened from visibility from all public rights-of-way including streets or alleys.

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3.3.7 Accessory Building as a Dwelling: No detached accessory building or structure shall be used for dwelling purposes unless otherwise permitted in this Ordinance.

3.3.9 Fences, Walls or Screens: Fences, walls or screens of not more than six (6) feet in height are permitted in all yards. Fences, walls or screens made of living plant material shall not be subject to this provision.

3.3.10 Satellite Dish Antennas, Antennas and Similar Structures: Satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function are permitted in all zoning districts subject to the following:

- A. Two satellite dish antennas shall be allowed per lot or parcel.
- B. All satellite dish antennas, amateur radio antennas, and other similar structures shall satisfy the minimum yard setback requirements.
- C. Satellite dish antennas are subject to accessory building height limitations.

SECTION 3.4: ARCHITECTURAL DESIGN AND CHARACTER

3.4.1 Architectural Design: Architectural design is a key element in establishing a sense of place for a community. Buildings of high quality contribute to the attractiveness and economic well-being of a community, making it a better place to live and work. The Village recognizes the importance of good architecture and its lasting impact. The objective of architectural design standards is to direct builders toward creating buildings of timeless character that are in harmony with the natural and built environment.

The architectural design standards of the Village are intended to customize, simplify, and streamline improvements, renovations, and future development to fit the desired character of the community, and to be consistent with the vision and goals for the Village as detailed in the Village of Port Sanilac Master Plan.

3.4.2 Design Principles and Area Character:

- A. The street, driveway, and sidewalk pattern in the community shall be designed to maximize auto, pedestrian, and bicycle connectivity.
- B. Visibility of building fronts shall be considered based upon pedestrian scale – not automotive drive-by scale.
- C. Developments shall have a unifying design. Corporate “franchise” architecture that is not compatible with the established character within the Village, in the determination of the Planning Commission, shall be modified to be compatible with the community character and theme herein.
- D. Any building erected in a commercial zoning district shall be in harmony with the exterior design and appearance of existing buildings in the surrounding area. The term “in harmony with,” as used in this section, means consistency with the existing, surrounding community character of a particular neighborhood or area. The standards herein contained are intended to prevent buildings which would adversely affect the value of buildings in the surrounding area, adversely affect the desirability of an area to existing or prospective property owners, impair the stability of the environment, prevent the most appropriate use of real estate and lessen the opportunity to realize the development pattern envisioned in the Village Master Plan and other approved Village plans.

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SECTION 3.5: BOAT HOUSES

3.5.1 Boat Houses: No front yard shall be required as set forth in the district in which it is located for any boat house constructed adjacent to Lake Huron, the front yard being in this case that part of the yard adjacent to the water. The boat house shall not exceed six hundred (600) square feet in area; shall have a minimum setback of five (5) feet from the side lot line and shall be set back from the harbor line as established by the United States Corps of Engineers and/or Michigan Department of Environmental Quality. A zoning compliance permit and building permit are required for a boat house.

SECTION 3.6: BOUNDARIES

3.6.1 Boundaries: No new lot boundaries of an already existing site may be established less than eight (8) feet from a building on such a building site.

SECTION 3.7: BUILDING PERMITS

3.7.1 Building Permits: No excavation for construction shall be commenced and no structure shall hereafter be erected, enlarged, altered or reconstructed until a Building Permit has been issued by the Building Official. No Building Permit shall be issued until other permits required by this Ordinance have been obtained.

SECTION 3.8: BURIAL OF DEBRIS ON PREMISES

3.8.1 Burial of Debris on Premises: Trash, debris, garbage, junk, vehicles, equipment, etc., shall not be buried on premises other than those appropriately licensed and approved. Biodegradable material generated on an owner's agriculturally zoned premises may be disposed of thereon if such disposal complies with MDNR, EPA, Department of Agriculture and Sanilac County Health Department Regulations.

SECTION 3.9: COMMUNICATION TOWERS

3.9.1 Purpose: Changing technology in the field of communication has resulted in reliance upon more versatile and convenient forms of communication. Businesses, individuals and government have developed a strong dependence upon the ability to quickly contact others. The use of radios and cellular phones has proven themselves over and over again in emergency situations.

3.9.2 Special Approval Use Permit Required: Communication towers may be permitted by the Planning Commission after a public hearing and review of the proposed site plan, and subject to the general standards to guide the actions of the Planning Commission as specified in Article 17 "Special Land Use Regulations." Applicants should follow the application and review requirements detailed in Section 17.3.

3.9.3 Minimum design and development standards: See Section 17.10.35 for special land use standards.

SECTION 3.10: CONFLICTING REGULATIONS

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3.10.1 Conflicting Regulations: Whenever any provisions of this Ordinance impose more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or Ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or Ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or Ordinance shall govern. Procedural and jurisdictional requirements of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, shall always control and govern.

SECTION 3.11: ENVIRONMENTAL IMPACT STATEMENT

3.11.1 Environmental Impact Statement: The Planning Commission may require an Environmental Impact Statement (EIS), at the expense of the applicant, for any residential, commercial or industrial development before approving a required site plan or making a decision upon a request for Planned Unit Development. An EIS prepared for another public agency may be acceptable. Said statement should analyze the impact of the proposed development on utility systems, fire, police and school services, solid waste disposal, soils, air, groundwater, floodplain, wetland and similar water courses and drainage, noise levels and added traffic which might affect existing land uses or neighborhoods negatively, and other similar factors which may be unique to a specific proposal. The Planning Commission shall review the impact statement to determine if any proposed impacts would result in pollution, impairment or destruction of the environment over the threshold established in Part 17 of the Michigan Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended, or greater than existing level of service standards applicable to services and facilities provided in the Village.

SECTION 3.12: ESSENTIAL SERVICES AND MUNICIPAL FACILITIES

3.12.1 Essential Services:

- A. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, water towers, poles, street lighting, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith, but not including communication towers, which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district.
- B. Notwithstanding the exceptions contained in the immediately preceding sentence:
 - 1. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
 - 2. Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform to the general character of the architecture of the surrounding neighborhood.

3.12.2 Municipal Services: Article 9 establishes the zoning districts and authorized

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uses for municipal facilities in the Village of Port Sanilac. All buildings, structures and/or uses owned or operated by a local, state or federal agency require review and approval of a site plan by the Village Planning Commission prior to construction or alteration, except as provided below or when preempted by statute. Separate standards exist for many of these uses in the specific districts and in the provisions for special land uses in Article 17.

- A. Buildings, structures, facilities and/or uses owned or operated by the Village of Port Sanilac are exempt from the provisions of this Ordinance.

SECTION 3.13: GREENBELTS

3.13.1 Greenbelts: Adequate greenbelts and/or screening barriers that meet site specific needs shall be established and maintained between unlike district boundaries, between roadways and site and between developed industrial sites. The Planning Commission may, at its discretion, require such buffers between commercial sites.

SECTION 3.14: HOME OCCUPATIONS

3.14.1 Intent: Some types of work can be conducted at home with little or no effect on the surrounding neighborhood. The home occupation regulations of this subsection are intended to permit residents to engage in customary home occupations, while ensuring that such home occupations will not be a detriment to the character and livability of the surrounding area. The regulations require that home occupations (an accessory use) remain subordinate to the allowed principal use (residential) and that the residential viability of the dwelling unit is maintained.

3.14.2 Uses Allowed: The home occupation regulations of this subsection establish performance standards rather than detailed lists of allowed home occupations. Uses that comply with all of the standards of this subsection will be allowed as home occupations unless they are specifically prohibited. The home occupation must be clearly subordinate and incidental to the use of the dwelling as a residence.

3.14.3 Prohibited Uses: Prohibited home occupations include, but are not limited to, the following:

- A. Animal hospitals and animal boarding facilities are not allowed as home occupations. This includes kennels, commercial stables and all other types of animal boarding facilities.
- B. Medical or dental offices.
- C. Construction businesses which provide the storage of goods, equipment and materials to be utilized in the operation of the business or use. This does not include landscaping businesses.
- D. Warehousing.
- E. Welding or machine shops.
- F. Any use involving the distribution of firearms or the storage of firearms intended for sale or distribution.
- G. Dispatch centers, where employees come to the site to be dispatched to other locations, are not allowed as home occupations.

3.14.4 Where Allowed: Home occupations that comply with the regulations of this section will be allowed as an accessory use to any permitted residential use.

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3.14.5 Space Limitations: Not more than one-fourth (1/4) of the living area of the dwelling unit and less than one-half (1/2) of the living area of the main floor shall be devoted to the home occupation. No part of an accessory structure, either attached or detached shall be used. In no instance shall the occupation reduce the actual living space below that established as the current minimum requirement in the district involved.

3.14.6 Conformance with Zone District Requirements: The dwelling shall conform to all its zone district requirements.

3.14.7 Resident Operator: The operator of a home occupation must be a full-time resident of the subject dwelling unit and be on the premises during the hours of operation of the home occupation.

3.14.8 Exterior Alterations:

- A. Home occupations shall not require exterior alterations or involve construction features not customary in dwellings, or require the use of mechanical or electrical equipment which shall create a nuisance to adjacent residential dwellings.
- B. No new external entrances to the space devoted to the occupation shall be created.

3.14.9 Interior Alterations: Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting a home occupation which would render it unsuitable for residential use shall be prohibited.

3.14.10 Outdoor Storage: There shall be no outdoor storage of items supportive of the home occupation.

3.14.11 Parking: The activity shall not require any additional parking.

3.14.12 Customers, Clients, Students or Patients: No more than three (3) customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.

3.14.13 Hours of Operation:

- A. Visits by customers, clients, students or patients to the premises in which a home occupation is located shall be limited to the hours of 7:00 a.m. to 8:00 p.m.
- B. Deliveries or pick-ups of supplies or products associated with home occupations are allowed only between 7:00 a.m. and 8:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. Tractor-trailers are expressly prohibited.

3.14.14 Operational Impacts: No home occupation or equipment used in conjunction with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage that is perceptible beyond the lot line of the lot upon which the home occupation is conducted. No hazardous substances may be used or stored in conjunction with a home occupation.

3.14.15 Traffic: No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood.

3.14.16 Home Occupations-Medical Use of Marijuana and Facility Requirements:

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A. Findings: The Village of Port Sanilac makes the following findings in support of its determination that the regulation of registered primary caregivers as a permitted home occupation is consistent with the purposes and intent of the Michigan Medical Marijuana Act (“MMMA”):

1. The acquisition, possession, cultivation, use, delivery or distribution of marijuana to treat or alleviate a debilitating medical condition is prohibited except in compliance with the Michigan Medical Marijuana Act (“MMMA”) of 2008 and applicable provisions of the Village of Port Sanilac Zoning Ordinance.

2. A registered primary caregiver, operating in compliance with the MMMA General Rules, the MMMA and the requirements of this subsection, is appropriate as a home occupation, as regulated by this subsection.

3. This ordinance is to make a uniform process and standards to be consistent with and promote the intent and purpose of proper and lawful zoning to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. These standards are also adopted to ensure that the land use or activity is consistent with the public health, safety, and welfare of all residents of the Village of Port Sanilac through a request for approval of a land use by application and the zoning permit process.

4. The Michigan Supreme Court has held and the MMMA does allow for the zoning of medical caregivers as a home occupation.

5. The MMMA’s protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individuals’ marijuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of registered primary caregivers.

6. The MMMA’s definition of “medical use” of marijuana includes the “transfer” of marijuana “to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition,” but only if such “transfer” is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the Department of Licensing and Regulatory Affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.

7. The MMMA provides that a registered primary caregiver may assist no more than five qualifying patients with their medical use of marijuana.

8. The MMMA does not, therefore, create a new vocation for entrepreneurs or others who wish to engage in the sale of marijuana to more than five persons in a commercial setting. Instead, the MMMA is directed at improving the health and welfare of qualifying patients through caregivers licensed by the State of Michigan.

9. The health and welfare of qualifying patients is improved by permitting the operations of registered primary caregivers as a home occupation, because this allows qualifying patients who suffer from serious or debilitating medical conditions or symptoms to obtain

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the benefits of the medical use of marijuana in a residential setting, without having to unnecessarily travel into commercial areas.

10. By permitting the operations of registered primary caregivers as a home occupation, rather than in a commercial or other zoned setting, promotes the MMMA's purpose of ensuring that (i) a registered primary caregiver is not assisting more than five qualifying patients with their medical use of marijuana, and (ii) a registered primary caregiver does not unlawfully expand its operations beyond five qualifying patients, so as to become an illegal commercial operation, in the nature of a marijuana collective, cooperative or dispensary.

11. The MMMA does not foreclose all local regulation of marijuana or zoning and the Village has authority to regulate land use under the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006 as long as (1) the municipality does not prohibit or penalize the cultivation of medical marijuana and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law.

12. An enclosed locked growing facility may be found in various locations on various types of property, and vary in size, structure, type and have an impact on neighboring property owners unless regulated through limiting where medical marijuana must be cultivated within a locality, which does not conflict with the statutory requirement that marijuana plants be kept in an enclosed, locked facility.

13. A local unit of government may provide by zoning ordinance for the regulation of land development which regulate the use of land and structures to meet the needs of the state's citizens for compatibility of places of including residential land uses to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land, and eliminate nuisances in order to promote public health, safety, and welfare.

14. The Village Council has been made aware and find there are complaints of land use, noise, smell, and dangerous structures related to growing marijuana, and this land use regulation is consistent with the MMMA's purposes to allow caregivers to grow in enclosed facilities in a residential setting, balanced with local government's responsibility and authority to regulate the compatible use of land under the Michigan Zoning Enabling Acts and State Building Codes.

15. In adopting reasonable standards, the Village of Port Sanilac is using its long-held authority to zone property and land uses now codified under the MZEA to craft an ordinance that does not directly conflict with the MMMA's provision requiring that marijuana be cultivated in an enclosed, locked facility while requiring zoning and building permits for the use of buildings and structures within its jurisdiction in order to ensure that the land use or activity is consistent with the public health, safety, and welfare of all residents including adjacent property owners in the Village of Port Sanilac.

16. For purposes of this Ordinance, the term dwelling is a building or portion of a building designed or used for residential living and sleeping. A dwelling does not include a vehicle, tent, or other transient residential uses.

B. Permitted Zones and Standards: The following standards and requirements shall

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apply to the location at which the medical use of marijuana is conducted by a primary caregiver:

1. The medical use of marijuana through caregivers must comply with this section and the standards set forth under section 3.14.

2. It is unlawful to establish or operate a for-profit or nonprofit marijuana dispensary, Collective, Commercial Use or Cooperative or Provisioning Center within the Village of Port Sanilac.

3. Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the Village, and may not be established or operated in any zoning district, by any means, including by way of a variance. Any and all types of “marihuana facilities” as described in Act 281 of 2016, the Medical Marihuana Facilities Licensing Act are completely prohibited in the Village and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.

4. The use of the dwelling or other permitted facility of a qualifying patient to cultivate medical marijuana in accordance with the MMMA, solely for personal use, does not require a permit under this subsection; however, all applicable State of Michigan requirements must be met. The provisions of this section do not apply to the personal use and/or internal possession of marijuana by a qualifying patient in accordance with the MMMA, for which a permit is not required.

5. Home occupations by caregivers under the Michigan Medical Marijuana Act (“MMMA”) of 2008 shall be allowed in all residential zones (zoning districts).

6. This section regulates land use as home occupation and allows for the medical use of marijuana by a registered primary caregiver with limitations on where the caregiver may cultivate marijuana within the Village of Port Sanilac including geographical and facility requirements, thereby complementing the limitations imposed by the MMMA; and is not intended to directly conflict with the MMMA nor does this ordinance contribute to a blanket prohibition on the medical use of marijuana with respect to time, place, and manner of such use.

7. Under this section, Home Occupation is defined as an occupation or profession conducted entirely within a dwelling, except for an enclosed locked facility in compliance with this ordinance and the MMMA which is clearly incidental and secondary to the residential use of the lot, does not change the character of the dwelling, and meets all applicable provisions of this ordinance.

8. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference which interferes with neighboring parcels use and quiet enjoyment of land. 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 or interferes with neighboring parcels use and quiet enjoyment of land.

9. A registered primary caregiver may only receive compensation for costs associated

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with assisting a registered qualifying patient in the medical use of marihuana to the extent allowed by MMMA. Any such compensation does not constitute the sale of controlled substances.

10. The home occupation shall not have more than 1 primary caregiver per dwelling; however, an owner of a dwelling may apply for a special exception for one (1) additional primary caregiver per parcel who also occupies the residential dwelling. The applicant shall apply to the Village Planning Commission. All requirements of this section for the additional primary caregiver shall apply. Not more than two (2) registered primary caregivers, who shall also be full-time residents of the dwelling, shall be permitted to operate at any one property.

11. A primary caregiver may assist no more than 5 qualifying patients with their medical use of marihuana or as otherwise allowed under the MMMA.

12. A primary caregiver shall not transfer a marihuana-infused product to any individual who is not a qualifying patient to whom he or she is connected through the State of Michigan's registration process.

13. No outdoor storage or display of marijuana shall be permitted.

14. There shall be no change in the exterior appearance of the dwelling, or other visible evidence of the conduct of such home occupation other than a locked enclosed facility allowed under the MMMA.

15. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.

16. No articles used for smoking marijuana shall be sold or offered for sale on the premises. Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver.

17. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous waste.

18. The medical use of marijuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.

19. The medical use of marijuana shall be conducted entirely within a dwelling occupied by the care giver, or attached garage, except that a registered primary caregiver may keep and cultivate, in an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marijuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marijuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.

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20. A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use of marijuana is taking place on the premises, shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.

21. Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marijuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.

22. Distribution of marijuana or use of items in the administration of marijuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall purchase, smoke, consume, obtain or receive possession of any marijuana on the property.

23. Except for the primary caregiver, no other person shall deliver marijuana to the qualifying patient.

24. No one under the age of 18 years shall have access to medical marijuana.

25. No on-site consumption or smoking of marijuana shall be permitted within the dwelling (or on the property) of a primary caregiver, except for lawful medical marijuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.

26. Medical marijuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by law.

27. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building, structure or facility in which equipment and devices that support the cultivation, growing or harvesting of marijuana are constructed, located or used.

28. If marijuana is grown or located in a room with windows or exterior structure, all lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.

29. The applicant shall provide on a form a zoning permit application approved by Village the following information:

a. Zoning Site Plan: Prior to construction, the property owner, agent or designee shall provide the zoning official an application and site plan which will include the location of the enclosed locked facility or any structure used to grow marijuana, the size of the structure, and the type of materials to be used in construction. The site plan shall include a plan for odor control.

b. Plumbing, mechanical, and energy plans: The property owner, agent or designee shall provide the zoning official, a plumbing, mechanical, and energy plan details of any building, facility or structure used for the growth of marijuana. The site plan shall also include the type, amount and location of stored chemicals.

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c. Electrical Plans and specifications. An applicant shall submit a detailed set of electrical plans and specifications with the application for an electrical permit for any wiring or alteration to an electrical system if the system requires installation of electrical equipment that has an ampacity of more than 200 amperes for the service. The electrical drawings shall include all of the following details:

- (a) Lighting layout.
- (b) Circuiting.
- (c) Switching.
- (d) Conductor and raceway sizes.
- (e) Wattage schedule.
- (f) Service location and riser diagram.
- (g) Load calculations and available fault current calculations.
- (h) A proposed method of construction that is drawn with symbols of a standard form.

(i) The plans shall include the selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer. The Village when approving electrical plans, does not assume responsibility for the design or for any deviations from any electrical drawings. The permit holder shall ensure that the plans and specifications approved by the enforcing agency, or a certified copy of the plans and specifications, where required, are available on the site for the use of the enforcing agency.

(j) Excluded from requirements in the plans are fences, sidewalks, and paving on streets, driveways, parking areas and patios.

30. The property, dwelling and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, Fire Chief or designee or other law enforcement official.

31. Setbacks-Any portion of a building, facility or other structure, such as a cultivation room, or facility including a "Enclosed, locked facility" as defined by the MMMA, shall meet the setback requirements from adjacent property lines as defined and stated for in the residential zoning district.

32. There shall be no open burning of marijuana. Other debris burn requires a burn permit to the extent allowed by Ordinance.

33. The operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of a Village zoning permit and payment of a permit fee established by resolution of the Village Council.

34. A complete and accurate application shall be submitted on a form provided by the Village and a uniform application fee in an amount determined by resolution of the Village shall be paid:

(a)The permit application shall include the name and address of the applicant; the address of the property; proof, such as a driver's license, voter registration card or similar record showing that the dwelling is the applicant's full-time residence; a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marijuana cultivation and processing; the number of patients served, and a description of the location at which the use will take

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place.

(b) The zoning administrator may require additional information necessary to demonstrate compliance with all requirements. The zoning administrator shall review the application to determine compliance with this ordinance, the MMMA and the MMMA General Rules.

(c) A permit shall be granted by the zoning official if the application demonstrates compliance with this ordinance, the MMMA and the MMMA General Rules, which may include a site visit to review for compliance of any structure or facility built or to be built for the growth or storage of marijuana.

(d) The use shall be maintained in compliance with the requirements of this ordinance the MMMA and the MMMA General Rules. Any departure shall be grounds to revoke the permit and take other lawful action. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted.

(e) Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the Village, shall be maintained separately from public information submitted in support of the application be distributed or otherwise made available to the public and shall not be subject to disclosure.

35. Violations as nuisance per se. Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a facility used to grow or store marijuana in violation of this ordinance is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se.

36. Violation of this Article shall be enforced as a nuisance pursuant to MCL 125.3407 and other applicable law in a court of competent jurisdiction. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se including the assessment of costs and fees as allowed by law or Michigan Rules of Court.

37. Appeals: Any decision of the zoning official may be appealed to the zoning board of appeals.

38. Variance. The zoning board of appeals may grant a non-use variance in the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done, consistent with the Michigan Zoning Enabling Act 110 of 2006 as amended.

41. Nothing in this Section shall limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marijuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq other State of Michigan law.

42. Severability. Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application. (effective 1/30/2021)

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SECTION 3.15: LAKEFRONT PROPERTY

3.15.1 Lakefront Property: For purposes of this ordinance, the open space between the road right-of-way and the principal structure on lakefront property, shall be considered as the "rear yard" and subject to all the rear yard provisions and/or restrictions.

SECTION 3.16: LAND USE LIMITATIONS

3.16.1 Land Use Limitations: No more than one use of a parcel of land and no more than one dwelling on a parcel of land shall be permitted without the approval of the Planning Commission or a variance as the circumstances may require.

SECTION 3.17: LOADING, OFF-STREET

3.17.1 Loading, Off-Street: On the same premises with every building devoted to retail trade, retail, and wholesale food markets, warehouses, supply houses, wholesale or manufacturing trade, hotels, hospitals, laundry, dry cleaning establishments or other buildings where goods are received or shipped, erected in any district after the date of adoption of this Ordinance loading and unloading space shall be provided as follows:
A. Such businesses shall provide not less than 500 sq. ft. (10 feet x 50 feet) x 16 ft. height of off-street loading space for the first 750 sq. ft. of building floor area, plus one additional off-street loading and unloading space for each additional 1000 sq. ft. (or portion thereof) of floor area.

SECTION 3.18: LOTS OF RECORD, DIVISION OF LOTS, MERGER OF LOTS, COMBINATION OF LOTS

3.18.1 Existing Lots of Record: A lot, which is platted or otherwise of record as of the effective date of this Ordinance, may be used as specified in the zoning district in which it is located. The structure shall be located on the lot as nearly as feasible to assure compliance with all yard and setback requirements for the zoning district in which the lot is located, as determined by the Zoning Administrator.

3.18.2 Notification of the Village: The Assessor shall be notified of all property divisions. The owner of any parcel of property proposed for a split shall file a site plan and request for approval with the Assessor. If approved by the Assessor, the division must then be submitted to the Village Planning Commission for final approval.

3.18.3 Division of Lots: Neither an existing lot of record nor any lot created after the effective date of this Ordinance shall be divided except in conformance with the requirements of the Land Division Act (Public Act 288 of 1967), as amended. No land use permit or building permit shall be issued for split lots, or any construction commenced unless the suitability of the land for building sites has been approved by the Assessor.

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3.18.4 Splitting of Platted Property Prohibited: The division of a lot in a recorded plat is prohibited unless an application (with reasons) for splitting the platted parcel has been filed with the Assessor and the division has been approved by the Village Planning Commission.

3.18.5 Merger of the Lots: Any person seeking or required to use two or more abutting lots or one lot and a portion of an abutting lot to meet the minimum requirements of the Land Division Act (Public Act 288 of 1967), as amended, or this Ordinance for a use permitted in the zoning district where the lots are located, shall prior to any such use, enter into an agreement with the Village of Port Sanilac by which the lots or lot and portion of an abutting lot are merged and shall not be subsequently divided or used separately. The person requesting the merger shall be the owner of record of all lots or portions of lots involved. The merger agreement shall be on a form provided by the Assessor and shall be recorded with the Sanilac County Register of Deeds Office, as applicable. Any merger involving a portion of an abutting lot shall require approval of the division of such abutting lot in compliance with the preceding subsection.

3.18.6 Combination of Lots: Within any zoning district, where two or more contiguous lots each fail to comply with the area, depth and width requirements of the zoning district in which they are located and are under common ownership, such lots shall be merged for any development to the extent necessary to obtain a conforming lot or lots in such district and shall not be separated for use or development otherwise.

SECTION 3.19: MOBILE HOMES

3.19.1 Mobile Homes: Mobile homes shall not be erected, placed, moved or otherwise located in any district other than Mobile Home Subdivision or Park (MHS).

SECTION 3.20: OFF-STREET PARKING REQUIREMENTS

3.20.1 Off-Street Parking Requirements:

A. For each dwelling, business, commercial, industrial or similar building hereafter erected or altered, and located adjacent to a public highway in the Village and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way that is in general adequate for the parking, loading and unloading of vehicles in proportions no less than shown on Table 3-1.

B. Such space shall be provided with safe exit to and entrance from the public thoroughfare.

C. Such exit and entrance may be combined or provided separately.

D. Approval of the location of such exit and entrance shall be obtained in writing from the County Road Commission, the Michigan Department of Transportation (MDOT) or other State of Michigan authority, and/or the Village Department of Public Works, which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.

E. A minimum of one hundred eighty (180) square feet, exclusive of drives, entrances and exits shall comprise one (1) automobile space.

F. Commercial, Agricultural-Residential and Industrial uses shall provide adequate

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space in the off-street parking area for turning a vehicle so that when a vehicle re- enters a public highway it shall be driven in a forward manner and not backed into said highway.

G. For those uses not specifically mentioned, the requirements of off-street parking facilities shall be in accord with a use which the Planning Commission considers is similar in type.

3.20.2 Off-Street Parking Schedule:

The minimum number of off-street parking spaces by type of use shall be determined in accordance with Table 3-1.

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**TABLE 3-1: VILLAGE OF PORT SANILAC
OFF-STREET PARKING REQUIREMENTS SCHEDULE**

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
RESIDENTIAL	
a) Residential, One-Family and Two-Family	Two (2) for each dwelling
b) Residential, Multiple family	Two (2) for each dwelling unit
c) Housing for the elderly	One (1) for each two (2) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided.
d) Trailer Court	Two (2) for each trailer site.
INSTITUTIONAL	
a) Places of worship	One (1) for each four (4) seats or six (6) feet of pews in the main unit of worship.
b) Hospitals	One (1) for each one (1) bed.
c) Homes for the aged & convalescent homes	One (1) for each two (2) beds.
d) Elementary & Junior high schools	One (1) for each one (1) teacher, employee, or administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
e) Senior high schools	One (1) for each (1) teacher, employee, or administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
f) Private clubs or lodge halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building, or health codes.
g) Private golf clubs, tennis clubs, or other similar uses	One (1) for each two (2) member families or individuals.
h) Golf courses open to the general public, except miniature or "par-3" courses	Six (6) for each one (1) golf hole and one (1) for each one (1) employee.
i) Stadium, sports arena, or similar place of outdoor assembly	One (1) for each three (3) seats or six (6) feet of benches.
j) Theater & auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
BUSINESS & COMMERCIAL	
<i>Onsite and available Municipal Parking Lots within a reasonable walking distance</i>	
a) Planned commercial or shopping center	One (1) for each three hundred (300) sq. ft. of usable floor area.
b) Auto wash	One (1) for each one (1) employee. In addition, adequate waiting space for autos shall be provided on the premises.

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USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
c) Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs and one and one-half (1 1/2) spaces for each additional chair.
d) Bowling Alleys	Five (5) for each one (1) bowling lane.
e) Dance halls, pool, or billiard parlors, roller or skating rinks, exhibition halls, & assembly halls without fixed seats.	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire building or health codes, plus one (1) per employee based upon maximum employment shift.
f) Establishments for sale & consumption on the premises of beverages, food, or refreshments.	One (1) for each three hundred (300) sq. ft. of usable floor space.
g) Furniture & appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair & other similar uses.	One (1) for each eight hundred (800) sq. ft. of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.)
h) Automobile service stations	Two (2) for each lubrication stall, rack or pit; and one (1) for each gasoline pump.
i) Laundromats & coin operated dry cleaners	One (1) for each two (2) machines.
j) Miniature or "Par-3" golf course.	Three (3) for each one (1) hole plus one (1) for each one (1) employee.
k) Mortuary establishments	One (1) for each fifty (50) sq. ft. of usable floor space.
l) Motel, hotel, or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one employee
m) Motor vehicle sales & service establishments	One (1) for each three hundred (300) sq. ft. of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room
n) Retail stores except as otherwise specified therein.	One (1) for each one hundred & fifty (150) sq. ft. of usable floor space.
OFFICE	<i>Onsite and available Municipal Parking Lots within a reasonable walking distance</i>
a) Banks	One (1) for each one hundred (100) sq. ft. of usable floor space.
b) Business offices or professional offices	One (1) for each three hundred (300) sq. ft. of usable floor space.

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c) Professional offices of doctors or similar professions	One (1) for each one hundred (100) sq. ft. of usable floor area in waiting rooms, and one (1) for each examining room, dental chair, or similar use area.
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USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
INDUSTRIAL	
a) Industrial or research establishments	Five (5) plus one (1) for every one and one-half (1-1/2) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
b) Wholesale establishments	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every seventeen hundred (1,700) sq. ft. of usable floor space, whichever is greater.
c) Public and Public Utility Buildings	One (1) for each employee or three hundred (300) sq. ft. of usable floor area, whichever is greater.

3.20.3 Parking Lots in Residential Districts: When in its opinion, the best interests of the community will be served thereby, the Village Council may permit temporarily or permanently the use of land in a Residential District for a parking lot where the land abuts or is across the street from a district other than a residential district, PROVIDED THAT:

- A. The lot is to be used only for parking of passenger automobiles of employees, customers, or guests of the person or firm controlling and operating the lot, who shall be responsible for its maintenance.
- B. No charge is to be made for parking in the lot.
- C. The lot is not to be used for sales, repair, work, or servicing of any kind.
- D. Entrance to and exit from the lot are to be located so as to do the least harm to the residence district.
- E. No advertising sign or material is to be located on the lot.
- F. All parking is to be kept back of the setback building line by barrier unless otherwise specifically authorized by the Village Council.
- G. The parking lot and that portion of the driveway back of the building line is to be adequately screened from the street and from adjoining property in a residence district by a hedge, fence or wall not less than four (4) feet high and not more than eight (8) feet high located back of the setback building line; all lighting is to be arranged so that there will be no glare therefrom annoying to the occupants of adjoining property in a residence district, and the surface of the parking lot is to be smoothly graded, hard surfaced and adequately drained.
- H. Such other conditions as may be deemed necessary by the Village Council to protect the character of the residential district.

SECTION 3.21: OPERATIONAL PERFORMANCE STANDARDS

3.21.1 Operational Performance Standards: All structures, uses, and activities in all zoning districts shall be used or occupied so as to avoid creating any dangerous, injurious, noxious or otherwise objectionable condition that would create adverse impacts on the residents, employees, or visitors on the property itself or on neighboring properties.

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3.21.2 Smoke and/or Air Pollution Control: The emission of gases, smoke, dust, dirt, and fly ash should in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable federal, state and county health laws pertaining to air pollution and smoke abatement.

3.21.3 Glare: Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line. Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.

3.21.4 Nuclear Radiation: Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the United States Nuclear Regulatory Commission.

3.21.5 Electromagnetic Radiation: It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the interdepartmental Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation.

3.21.6 Vibration: Operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Temporary construction is excluded from this restriction.

3.21.7 Fire and Explosive Materials: The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the state rules and regulations as established by the Michigan Fire Prevention Code (Public Act 207 of 1941), as amended. Any explosive as defined the Explosives Act of 1970 (Public Act 202 of 1970), as amended, shall be prohibited on site.

3.21.8 Hazardous Materials: All applicable federal, state, and local statutes, rules, regulations, and Ordinances (including, without limitation, those promulgated and/or enforced by the U.S. Environmental Protection Agency, the Michigan Department of Natural Resources and Environment, the National Institute of Health, or the Food and Drug Administration) shall apply to the treatment, storage, transportation, and disposal of any hazardous materials, hazardous wastes, or solid wastes (as such terms are defined by any of the applicable statutes, rules, regulations, or Ordinances referenced above).

3.21.9 Waste and Rubbish Dumping:

- A. No garbage, sewage, filth, refuse, waste, trash, debris, or rubbish, including cans, bottles, waste paper, cartons, boxes and crates, or other offensive or obnoxious matter shall be kept in open containers, or piled, placed, stored or dumped on any

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land within the district in such a manner as to constitute a nuisance or create a hazard to health, safety, morals, and general welfare of the citizens of Port Sanilac.

- B. No person shall cause or permit any materials to be handled, transported, or stored in a manner that allows particulate matter to become airborne or liquid matter to drain onto or into the ground. All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed, impermeable trash containers that are screened in accordance with the requirements of this Ordinance. Toxic and hazardous materials and chemicals shall be stored, secured and maintained so that there is no contamination of ground, air, or water sources at or adjacent to the site. Provisions shall be provided so that all lubrication and fuel substances shall be prevented from leaking and/or draining onto the property.

3.21.10 Noise: Emitted noise shall be so muffled or otherwise controlled, as not to become objectionable, due to intermittence, beat frequency, impulsive character (hammering, etc.), periodic character (humming, screeching, etc.) or shrillness. Sirens, bells, whistles, etc., which are maintained and utilized solely to serve a public purpose (such as fire, ambulance, police, civil warning alarms) shall be excluded from this regulation.

3.21.11 Drainage and Erosion: Every property owner in the Village shall provide adequate means for the conveyance and drainage of surface water along the street or road in front of his/her property. No land or structures may be erected or altered in such a fashion as to increase the deposit of surface water on neighboring properties. Plans for management of surface water shall be reviewed, evaluated and approved by the Zoning Administrator and the County Soil Erosion Inspector. No use or alteration of land may result in the increase or diversion of surface water to adjacent property.

3.21.12 Traffic: Traffic access and control patterns and devices shall be reviewed, evaluated and approved by the State or County Road Engineer and the Village DPW.

3.21.13 Lighting: Exterior and/or interior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window, and shall be so arranged to reflect light away from any residential use. In no case, shall more than one foot candle power of light cross a property line five feet above the ground in a residential district.

SECTION 3.22: OPAQUE BARRIER

3.22.1 Opaque Barrier:

- A. An opaque barrier may be constructed of any of the following materials:
1. Chain link fence laced with opaque strips;
 2. Wooden fence;
 3. Natural barrier such as dense tree line or dense shrubbery;
 4. Masonry materials.
- B. *Height:* The height of the opaque barrier shall be no less than six (6) feet. When the height of a man-made barrier exceeds eight (8) feet a set back from the lot line equal to that required for a structure will be maintained.

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SECTION 3.23: PRINCIPAL USE

3.23.1 Principal Use: No lot zoned for residential purposes shall contain more than one (1) principal use or more than one principal structure. Commercial and industrial zoned land may contain more than one building and/or principal use provided all uses are permitted uses, and the buildings and uses meet the parking and other zoning district requirements. All business activity shall take place within an enclosed building, unless specifically authorized to be conducted outside as part of the use regulations of the district, or via special approval use standards of this Ordinance.

SECTION 3.24: PROJECTIONS IN YARDS

3.24.1 Projections in Yards:

- A. Existing buildings or structures shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance with architectural elements that are necessary to the integrity of the structure of the building, or health or safety of the occupants such as cornices, sills, belt courses, eaves, gutters, chimneys, pilasters, balconies, outside stairways, fire escapes, and similar features, provided projections into a required yard area are no more than three (3) feet.
- B. Ramps to accommodate wheelchairs and related devices to assist the handicapped are permitted to encroach on the yard requirements of any district, provided an application for a Zoning Compliance Permit is filed with the Zoning Administrator, who shall find as a condition of issuing the requested permit that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. Ramps may not be covered in the portion of the front yard within the setback for the principal building.
- C. Awnings in residential districts may project into a required setback area no more than three (3) feet and in the C, CBD, and I districts no more than five (5) feet. Awnings shall be at least eight (8) feet in height. No awning shall be erected over public right-of-way.

SECTION 3.25: RAZING OF BUILDINGS

3.25.1 Razing of Buildings: No building shall be razed until a permit has been obtained from the Building Inspector who shall be authorized to require a performance bond by requiring a bid and setting the performance bond as the bid price. Said bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may, from time to time, prescribe, including filling of excavations and proper termination of utility connections. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the Village shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid in a timely fashion (see Section 4.8).

SECTION 3.26: REQUIRED YARD OR LOT

3.26.1 Required Yard or Lot: All lots, yards, parking areas, or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of

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the zoning district in which they are located.

SECTION 3.27: REQUIREMENTS FOR RESTORATION IN HIGH-RISK EROSION AREAS

3.27.1 Restoration in High-Risk Erosion Areas: The Village Council may allow the restoration of structures when in compliance with the terms of this Section and when restoration would not violate the spirit and intent of this ordinance. As a condition for approval of restoration plans, the Village may require:

- A. Measures which will aid in stabilizing the bluff other than the construction of erosion control devices.
- B. The use of runoff or soil erosion control techniques to prevent any acceleration erosion which may occur during restoration of the structure.
- C. The relocation of a restored principal structure further back from the eroding bluff when the Village Council determines that the structure is likely to suffer erosion damage within three years based on average annual recession rates calculated in the shore land erosion studies conducted pursuant to Part 323 (Shorelands Protection and Management) of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), as amended. The lawful disposal of all debris resulting from the damage or from the restoration of a principal structure in a manner such that the debris poses no safety or health hazard.
- D. The Zoning Board of Appeals may impose other conditions on the restoration of nonconforming principal structures, provided these conditions are consistent with the intent of this Ordinance and consistent with the promotion of the public health, safety and welfare.

SECTION 3.28: SITE CONDOMINIUMS

3.28.1 Purpose: Condominiums permitted in the State of Michigan by the Condominium Act (Public Act 59 of 1978), as amended, are subject to state and federal regulations and the requirements of this section. The following specific requirements provide regulatory standards for site condominiums similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat a proposed or existing condominium project different from a project developed under another form of ownership.

3.28.2 Applicability of District and Other Zoning Regulations: Site condominium projects in any residential district shall comply with all setback, height, coverage and area restrictions in Article 8 "Schedule of Regulations," in the same manner as those standards would be applied to platted lots in a subdivision. All landscaping, parking, sign and similar standards and requirements of this Zoning Ordinance shall apply to site condominium projects.

3.28.3 Applicability of Private Road Requirements: Private roads and access points within site condominiums must meet the road design, construction and maintenance requirements of the Village DPW and the Sanilac County Road Commission. Site condominium projects with public streets shall meet the standards of the Village DPW and the Sanilac County Road Commission.

3.28.4 Site Condominium Project Approval Procedures: Prior to recording the master deed as required by Section 72 of the Condominium Act (Public Act 59 of 1978),

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as amended, all projects shall undergo condominium subdivision plan review and approval pursuant to this Ordinance. Processing will be in accordance with the review and approval procedures for the processing of Special Land Use Permits detailed in Article 17. Prior to approval of the condominium subdivision plan, the Planning Commission shall consult with the following persons and/or organizations regarding the adequacy of the master deed, deed restrictions, utility systems, roads and streets, site layout and design, and other pertinent requirements of the Condominium Act (Public Act 59 of 1978), as amended, and this Ordinance:

- A. Village Legal Counsel;
- B. The Sanilac County Health Department;
- C. The Sanilac County Road Commission;
- D. Michigan Department of Environmental Quality; and
- E. Other governmental entities as appropriate.

3.28.5 General Requirements:

- A. A letter of application shall be submitted in conjunction with any proposals for approval of site condominiums. The applicant shall pay a reasonable fee to be determined by the Village Council based upon the scope and complexity of the project. The fee shall approximate the costs incurred by the Village in the project review process including the cost of associated legal review. The fee so determined shall be in addition to the standard special land use permit application fee that shall have application to all site condominium proposals and which shall be paid prior to commencement of any Village action on the application.
- B. No construction or other development work shall be done upon the land intended to be used for a site condominium until a final site plan has been approved in accordance with Article 16 except with the express permission of the Planning Commission. This requirement shall include contractible, conversion, and expandable site condominiums.
- C. All zoning and special approval land use permit requirements of this Ordinance have application to buildings and structures on and uses of site condominium units.
- D. The Planning Commission shall have the authority to approve, approve with conditions, or deny approval of preliminary and final site plans for site condominiums based upon requirements of this Ordinance and the Michigan Condominium Act (Public Act 59 of 1978), as amended.
- E. Each condominium unit shall be located in a zoning district that permits the proposed use.
- F. Each site condominium unit shall comply with all requirements of the zoning district in which the unit is located. In the case of site condominiums containing single-family detached condominium units, no more than one (1) single-family dwelling unit shall be located on a condominium unit, nor shall a dwelling unit be located on a condominium unit with any other principal structure or use. Required setbacks shall be measured from the boundaries of the condominium unit. Any established ground floor coverage and floor area ratio shall be calculated using the area of the condominium unit. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
- G. Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents as provided in Section 48 of the Condominium Act (Public Act 59 of 1978), as amended, shall comply with all requirements of the zoning district in which located and shall be approved by the Planning Commission. These requirements shall be made a part of the bylaws and recorded as part of the master deed.

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3.28.6 Site Plan Requirements:

- A. Every application involving a site condominium shall be accompanied by a minimum of two (2) paper copies and a digital copy of a site plan prepared pursuant to Article 16 "Site Plan Requirements." The Zoning Administrator may require additional copies of a site plan.
- B. The applicant shall consult with the Sanilac County Health Department (water and sewer issues), the Sanilac County Road Commission (road and street design, drainage, and access issues), and the Michigan Department of Environmental Quality (floodplain issues) during the project development process. Documentation of such consultation and any comments received shall be provided to the Planning Commission for their review and consideration. The Planning Commission shall not approve a final site plan until it is satisfied that any issues raised by these organizations have been adequately addressed.

3.28.7 Revision of Condominium Subdivision Plan: Should the applicant wish to revise the condominium subdivision plan, the final site plans shall be revised accordingly and submitted for Planning Commission review and approval before any necessary permits will be issued.

3.28.8 Amendment to Master Deed or Bylaws: Any amendment to a master deed or bylaws that affect the approved site plan shall be reviewed and approved by the Planning Commission before any necessary permits will be issued. The Planning Commission shall also review any amended site plan if, in the judgment of the Planning Commission, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

3.28.9 Relationship to Subdivision Requirements: All site condominiums shall conform to any plan preparation requirements; design, layout, and improvement standards; and any financial guarantees that are required by this Ordinance or that may become requirements of this or other Ordinances prior to submission of a formal site condominium application. The standards and requirements of these Ordinances that have application to lots in a subdivision shall also apply to site condominium units. Nothing in this section shall be construed as requiring a site condominium to obtain plat approval under the Land Division Act (Public Act 288 of 1967), as amended.

3.28.10 Development Agreement: The Planning Commission may require, as a condition of approval, that the applicant enter into a development agreement with the Village of Port Sanilac incorporating the terms and conditions of final site plan approval and record the same with the Register of Deeds for Sanilac County.

3.28.11 Construction Located in a General Common Element: Any application for a permit for construction in a general common element shall include written authorization by the Condominium Association for the application.

3.28.12 Monuments and Lot Irons: Monuments shall be set in accordance with the Michigan Condominium Act (Public Act 59 of 1978), as amended, and all other state rules and regulations. The Planning Commission may grant a delay in the setting of required monuments for a reasonable time not to exceed one (1) year on condition that the applicant deposit with the Village Clerk cash, a certified check, or any irrevocable bank letter of credit endorsed to the Village of Port Sanilac, whichever the applicant

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selects, in an amount determined by resolution of the Village Council to be sufficient to cover the cost of setting the required monuments. Such deposit shall be returned to the applicant 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. Should the applicant default, the Village Council shall promptly retain the services of a registered surveyor to set the monuments and irons using the funds available in the applicant's security deposit.

3.28.13 Rights-of-Way and Utility Easements: All rights-of-way and utility easements shall be described separately from individual condominium units and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way and utility easements shall be separately designed for their individual purposes such as access and installation, maintenance, and replacement of facilities. Placement of water, sewer, and electrical power easements in street and road rights-of-way shall be consistent with any established Village requirements and consistent with Sanilac County Road Commission practice on facilities under their jurisdiction.

3.28.14 Conflicts with Federal and State Requirements: Should any requirements of this Section 3.29 conflict with federal and/or State of Michigan requirements, such federal and state requirements shall prevail.

SECTION 3.29: SUBSTANDARD DWELLINGS

3.29.1 Substandard Dwellings: For the express purpose of promoting the health, safety, morals and general welfare of the inhabitants of the Village, and reducing hazards to health, life and property, no fixed or movable substandard building or structure shall hereafter be occupied or erected or moved upon any premises and used for dwelling purposes.

3.29.2 Restoration of Unsafe Buildings: Notwithstanding the provisions of Article 6 "Nonconforming Use Regulations," nothing in this section shall prevent any structure or building, declared unsafe by the Building Inspector, from being restored to a safe condition, provided that structures have been destroyed shall be restored in conformity with the provisions of this Ordinance.

SECTION 3.30: SWIMMING POOLS

3.30.1 Defined: The term "swimming pool," for the purpose of this Ordinance, shall mean any structure, container or pool, portable or non-portable, having a depth of one (1) foot or more at any point and designed or used for swimming, wading or bathing. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas. All pools shall be regulated by this Ordinance, unless said pool is completely contained within a building that at least complies with the minimum provisions of district in which it is located.

3.30.2 Requirements:

- A. A zoning compliance permit shall be required for those swimming pools utilizing electrical service or requiring more than three (3) feet of excavation
- B. Any property owner installing a swimming pool shall comply with all State of Michigan Building Code Requirements.

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- C. All swimming pools and man-made ponds shall be located in the rear or side yard, not less than five (5) feet from the rear and side lot lines, enclosed by a four (4) foot fence with latched gate. All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the National Electrical Code. If service drop conductors or other utility *wires* cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of a swimming pool. No portion of a swimming pool or associated structure shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use. See also Section 3.15 "Lakefront Property."

SECTION 3.31: TEMPORARY BUILDINGS, STRUCTURES, AND USES

3.31.1 General: Temporary buildings, structures, and uses are permitted in all districts unless otherwise provided. Temporary buildings and structures not greater than four hundred (400) square feet in area and not to be used for dwelling purposes, may be placed on a lot or parcel of record and occupied only under the following conditions as authorized by a temporary zoning permit issued by the Zoning Administrator:

3.31.2 Fire Damage: During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than six (6) months. The Zoning Administrator may issue a three (3) month extension upon determining there is good cause for such an extension.

3.31.3 New Construction: Temporary buildings and structures incidental to construction work, except single-family residences are permitted. Said temporary buildings shall be removed within thirty (30) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Board of Appeals.

3.31.4 Habitation of Accessory Structures and Travel Trailers: No garage, barn, or accessory buildings, or cellar, whether fixed or portable, shall be used or occupied as a dwelling, except as authorized under Section 3.33 below.

SECTION 3.32: TEMPORARY DWELLINGS/RECREATIONAL VEHICLES

3.32.1 Temporary Dwellings: No person shall erect or occupy a temporary dwelling on any lot except as hereinafter provided:

- A. A building, including a basement home, which does not comply with the area requirements of its district may be occupied as a temporary dwelling for a period of not more than six (6) months if construction of a permanent dwelling is actually under way and in active progress during occupancy of such temporary dwelling. One consecutive additional six (6) month period of occupancy may be granted at the discretion of the Village Council.
- B. The Village Council may permit the use of a house trailer or mobile home as a temporary accessory dwelling to a permanent dwelling. No more than one trailer may be used and occupied as such accessory dwelling and then only if the occupants of such trailer have access to and the unlimited use of sanitary facilities of the permanent dwelling.
- C. The use of tents as a temporary dwelling in connection with recreational activities

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may be permitted upon application to the Village Council showing that the necessary and proper health, sanitation, plumbing and fresh water facilities are provided.

- D. The Village Council may permit on application the use of a trailer as a temporary dwelling with dimensions less than 12 feet x 50 feet for a period of six (6) months when the occupant of said trailer is definitely engaged in the erection of a permanent dwelling on said lot and when necessary and proper health, sanitation, plumbing and fresh water facilities are provided. If substantial progress has been made toward completion of the building, the Village Council may grant an extension for six months.
(Removed letter E amended 11/17/2020)

3.32.2 Recreational Vehicles:

- A. The owner of a parcel of land may park or store no more than 2 recreational vehicles upon residential premises and shall comply with all setback requirements as outlined in these zoning ordinances. For property abutting on Lake Huron, no recreational vehicle shall be parked or stored in the front yard space of the parcel of land or premises. (amended 12/01/2020)
- B. A recreational vehicle that is parked or stored by the owner on a parcel of land attached to the primary residence or premises owned or occupied by the same owner, shall not be occupied as a dwelling. (amended 11/17/2020)
- C. A recreational vehicle that is not owned by the owner of the parcel of land attached to the primary residence shall not be parked, stored or occupied upon said parcel of land or premises for more than 14 accumulative days in any 120-day period.
(amended 11/17/2020)
- D. One recreational vehicle brought by visitors for traveling purposes may be occupied and allowed for 14 accumulative days out of a calendar year if the visitors occupying said trailer use the sanitary facilities of the dwelling of the property owner or occupants they are visiting or make other suitable provisions for sanitary facilities. Such vehicle shall comply with all setbacks requirements as outlined in these zoning ordinances and shall not be parked on any easement. (amended 11/17/2020)

SECTION 3.33: TRAFFIC IMPACT ASSESSMENT

3.33.1 General:

- A. The Planning Commission may require a Traffic Impact Assessment (TIA), at the expense of the applicant, for any residential, office, commercial, industrial or mixed use development, which includes a land area of five acres or more or a building over 50,000 square feet, or when permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day, before approving a required site plan or making a decision upon a request for Planned Unit Development approval.
- B. At its discretion, the Planning Commission may accept a TIA prepared for another public agency.

SECTION 3.34: TRANSITION ZONING

3.34.1 Transition Zoning:

- A. Lots in Two Districts: Where a district boundary line as established in this Ordinance

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or as shown on the Zoning Map divides a lot which was in single ownership and of record at the time of this Ordinance, the use thereon and the other district requirements applying to the least restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within ten (10) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.

- B. Lots in Commercial or Industrial Districts Adjacent to a Residential Zone: Where a lot in a commercial or industrial district abuts a lot in a residential district there shall be provided along such abutting lines a yard equal in width or depth to that required in the residential district.
- C. Front Yard Transition: Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as commercial or industrial, the front yard depth in the commercial or industrial district shall be equal to the required front depth of the residential district.
- D. Corner Lot Transition: On every corner lot in residential subdivisions created after the enactment of this ordinance, there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street.
- E. Garage Entrances: No public or private garage for more than five motor vehicles or boats shall have an entrance or exit for motor vehicles or boats within forty (40) feet of a residential district.
- F. Parking Lots and Driveways Abutting Residential Zones: Whenever a parking lot or a driveway to a parking lot is hereafter established in other than a residential district so as to abut the side or rear line of a lot in a residential district a solid masonry wall, or a substantial view obstructing fence not less than three (3) feet high and not more than eight (8) feet high, shall be constructed and maintained along said side or rear lot line up to, but not beyond, the setback building line. In addition, in all use districts, the lighting, including any permitted illuminated sign, on any parking lot or driveway shall be arranged so that there will be no annoying glare directed or reflected toward residence buildings or residence districts.

SECTION 3.35: UNUSED AUTOMOBILES, VEHICLES, AND BOATS

3.35.1 Unused Automobiles, Vehicles, and Boats:

- A. If any outdoor premises contain unused, nonfunctional or dismantled automobiles, trucks, other self-propelled vehicles, trailers, boats, etc., for a period of thirty (30) days consecutively, the owner shall remove said vehicle on request of the Zoning Administrator. Automobiles, trailer, other vehicles or boats that do not bear current state registration shall be presumed to be unused.
- B. No nonfunctional, dismantled automobile, truck, van, trailer or other vehicle shall be used for purposes (housing livestock, storage, etc.) other than that originally intended (for transportation).

SECTION 3.36: VESTED RIGHT

3.36.1 Vested Right: Nothing in this Ordinance should 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 they are hereby declared to be subject to subsequent amendments, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

SECTION 3.37: WATER SUPPLY AND SEWAGE DISPOSAL

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3.37.1 Water Supply and Sewage Disposal: A land use permit shall be contingent upon the approval of the water supply and sewage disposal systems by Sanilac County Department of Health, the Village DPW and other appropriate official governmental authority.

SECTION 3.38: SOLAR ENERGY SYSTEM REQUIREMENTS

3.38.1 Intent: The Village of Port Sanilac encourages the effective and efficient use of solar energy systems. It is the intent of the Village to permit these systems by regulating their siting, design, and installation to protect public health, safety, and welfare, and to ensure their compatibility with adjacent land uses. Solar energy systems shall comply with the provisions of this Section and are only permitted as authorized by this Section.

3.38.2 Allowed Uses:

- A. Accessory Use - a Solar Energy System (SES) designed and installed to capture solar energy and convert it to electrical energy for on-site use primarily to reduce on-site consumption of utility power or fuels related to the property.
- B. Direct Use - a Solar Energy System (SES) designed and installed to capture solar energy and convert it to electrical energy as the primary source of on-site consumption of utility power or fuels related to the property.
- C. Primary Use - a Solar Energy System (SES) that uses over 50% of the Parcel(s) and is devoted to solar electric power generation primarily for use off-site.
- D. Secondary Use - a Solar Energy System (SES) that is not the Primary Use of the property and uses less than 50% of Parcel(s) land area.

3.38.3 General Requirements:

- A. All Solar Energy Systems must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.
- B. A ground mounted Solar Energy System shall be located in the rear yard and shall meet the rear yard setback requirements applicable in the zoning district in which the Solar Energy System will be located.
- C. A site plan shall be provided with ground mounted Solar Energy Systems showing compliance with required setbacks.
- D. All power transmission or other lines, wires or conduits from a ground mounted Solar Energy System to any building or other structure shall be located underground.
- E. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment and structures. All electrical control devices associated with the SES shall be locked to prevent unauthorized access or entry.
- F. Solar Energy Systems shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day.

3.38.4 Permit Required: The type of permit required for SES's shall be as shown in Table 3-2 "Permit Requirements."

Table 3-2: Permit Requirements

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	Accessory Use	Direct Use	Primary Use	Secondary Use
Agricultural/Residential	P	P	SLU	SLU
Commercial/Office	P	P	SLU	SLU
Industrial	P	P	SLU	P

P = Permitted Use SLU = Special Land Use

3.38.5 Setbacks: The following setbacks from the parcel line to the closest part of the SEF shall be established as shown in Table 3-3. Fencing, roads, and landscaping may occur within the setback.

	Accessory Use	Direct Use	Primary Use	Secondary Use
Setback from All Property Lines	Per Zoning for that District with Standard Accessory Structure Setbacks		75 feet	Per Zoning for that District with Standard Accessory Structure Setbacks

3.38.6 Height Limits: For ground mounted systems, height restrictions will be measured from natural grade below each module in the event the site has topographic changes.

Zoning District	Accessory Use/ Direct Use	Primary Use	Secondary Use
Agricultural or Residential	Roof Mount - below the ridge & less than 2 ft above the surface	Roof Mount - below the ridge & less than 2 ft above the surface	Roof Mount - below the ridge & less than 2 ft above the surface
	Ground Mounted -21 ft	Ground Mounted - 21 ft	Ground Mounted -21 ft
Commercial, Office, Or Industrial	Roof Mount - below the ridge & less than 3 ft above the surface	Roof Mount - below the ridge & less than 3 ft above the surface	Roof Mount - below the ridge & less than 3 ft above the surface
	Ground Mounted - 21 ft	Ground Mounted -21 ft	Ground Mounted - 21 ft

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