

CHAPTER 8. GENERAL PROVISIONS

8.1 APPLICATION OF GENERAL PROVISIONS. The general provisions of this Article shall apply in all districts unless specifically stated otherwise.

8.2 ACCESSORY BUILDINGS

- A. In any zoning district, an accessory building may be erected, detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.
- B. Detached and attached accessory buildings may be located as set forth in the appropriate zoning district.
- C. An accessory building may be utilized as a dwelling or as sleeping quarters, for a period of not more than three years, provided that the accessory building meets all applicable requirements of the State Construction Code pertaining to residential dwellings and provided further that all inspections and permits required by the State Construction Code are performed and obtained prior to occupancy of the accessory building.
- D. No accessory building may be built on any lot on which there is no principal building; provided however, that the Planning Commission may approve, as a special land use, the temporary construction and use of an accessory building on a lot on which there is no principal building, for a period not to exceed 36 months, subject to the standards and procedures set forth in Chapter 21 of this Ordinance. In granting any such special land use, the Planning Commission may impose a condition requiring the applicant to deposit with the Village, prior to the issuance of a building permit for the accessory building, an executed performance bond or irrevocable letter of credit, in a form and with content satisfactory to the Planning Commission, and in an amount deemed reasonably necessary by the Planning Commission, conditioned upon the applicant's construction of a principal building on the same lot within the time prescribed by the Planning Commission. In the event of the applicant's failure to construct a principal building on the same lot within the time prescribed by the Planning Commission, the Village may utilize the funds secured by the performance bond or letter of credit to demolish, remove and dispose of the accessory building.
- E. Accessory buildings and all map zoning districts shall be subject to the size requirements stated in those district regulations.

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8.3 ACCESSORY USES. For purposes of interpreting this ordinance, accessory uses shall be incidental to, and commonly associated with, the principal use. To be "commonly associated" with a principal use, the association of an accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

8.4 **ANIMALS.** Any other provision of this Chapter notwithstanding, the keeping, housing, raising, use or medical care of farm animals, other than house pets of an occupant of the premises, is prohibited in any RS-1, RS-2, RM, MFR, B-1, B-2 or D-1 District. Where such activities are pursued in any other district as it may be allowed, a minimum lot area of one acre for one animal unit and one-half acre for each additional animal unit shall be required. Animal units shall be determined as set forth in Table 8.1. A commercial kennel or riding stable shall provide over four acres for such use. An animal clinic shall be located on not less than one-half (1/2) acre of land if located in the B-1 or B-2 districts.

The number of animals per animal unit shall be defined as follows:

Table 8.1

Types of Animals	Animal Units per Individual	Types of Animals	Animal Units per Animal
Cattle (dairy or beef)	1.00	Horses	1.00
Swine	.50	Sheep, Goats	.50
Poultry, Fowl	.02	Turkeys, Geese, Ducks	.04

The equivalency for types of livestock not specifically listed above shall be the stated equivalency for the type of animal which is most similar in terms of quantity of manure output, as determined by the Michigan Department of Agriculture or the Michigan State University Extension Service.

Where animals other than house pets of the owner or occupant of the premises are kept or allowed outside, a fence of such construction as to keep said animals from leaving the premises will be provided and regularly maintained.

8.5 AREA OR SPACE REQUIRED. No lot, yard, court, parking area or other space shall be so divided, altered or reduced to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided or reduced.

8.6 ATTACHED SINGLE FAMILY DWELLINGS. Attached single family dwellings may not be erected and sold as individual units unless they are part of an approved condominium or PUD project

8.7 BASEMENT DWELLINGS. The use of a basement as a dwelling unit is prohibited in all zones. Any portion of a basement use as sleeping quarters shall be provided with a means of egress.

8.8 CONVERSION OF DWELLINGS. Where permitted, the conversion of any existing dwelling so as to accommodate an increased number of dwelling units shall be subject to all provisions of this ordinance relative to two-family or multiple-family dwellings.

8.9 CORNER LOTS. Where a lot is bounded by two streets, the front yard requirements shall be met for each street, and the remaining two sides

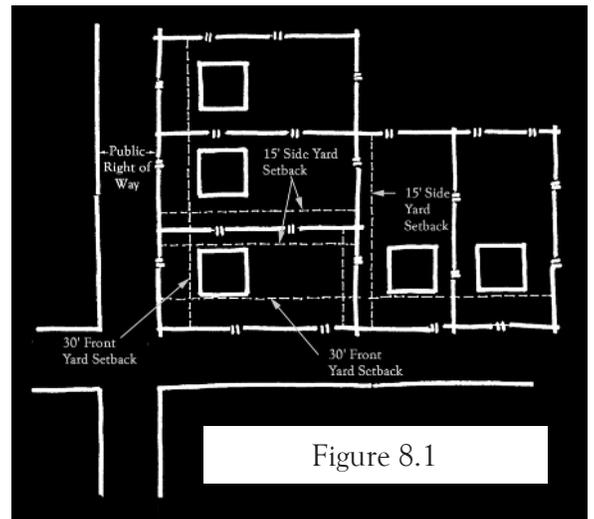


Figure 8.1

shall be regarded as side yards. See Figure 8.1.

8.10 DRIVEWAYS. A building referral shall not be issued until an applicant has first obtained a driveway permit from the Village.

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8.11 DWELLING SITUATED OUTSIDE OF A MANUFACTURED HOUSING COMMUNITY, MINIMUM REQUIREMENTS. All dwellings located outside of manufactured housing community shall comply with the following requirements:

- A. All dwelling units must conform to the minimum floor area requirements for the districts in which they are located.
- B. All dwelling units shall provide a minimum height between the floor and ceiling of seven feet six inches (7'-6).
- C. The minimum width of any single family dwelling unit shall be twenty (20) feet for at least sixty-seven (67%) percent of its length, measured between the exterior part of the walls having the greatest length.
- D. All dwellings shall be connected to a sewer system and water supply system approved by the Village or the County Health Department.
- E. Additions of rooms or other areas shall be constructed with similar quality workmanship as the original structure. Permanent attachment to the principal structure shall include construction of a foundation, and no addition shall involve placing a bearing load on a mobile home.
- F. All dwellings shall provide steps or porch areas, permanently attached to the foundation where there exists an elevation differential of more than eight (8) inches between any door and the surrounding grade.
- G. All dwellings shall have a double pitched roof of not less than four (4) feet of rise for each twelve (12) feet of run unless twenty (20) percent of the single family dwellings within one-half (1/2) mile have a lesser pitched roof, then a pitch equal to an average of those twenty (20) percent single family dwellings shall be provided, and the roof shall be covered by either asphalt, fiberglass, or shake shingles.
- H. All manufactured housing units installed outside of manufactured housing communities after the effective date of this ordinance shall not be more than ten (10) years old at the time of installation and shall be transported in two (2) or more sections.

8.12 DWELLING ON REAR OF LOT. Not more than one principal use shall be located on any one lot or parcel. No dwelling shall be constructed, altered or moved into the area behind a building situated on the same lot, nor shall any building be constructed in front of, or moved in front of, a dwelling situated on the same lot.

8.13 ESSENTIAL SERVICES. Essential services which are located underground or involve the customary placing of utility poles in public rights-of-way or public easements may be placed

in any zone, provided that the Planning Commission finds that there will be no adverse effect upon surrounding adjacent property.

8.14 EXISTING SUB-STANDARD LOTS. Any lot in single ownership at the time of adoption of this Chapter that fails to comply with the area and lot size requirements of this Chapter may be used for a permitted use if ninety percent (90%) or more of all yard requirements are complied with, and no Zoning Board of Appeals action shall be required.

8.15 FLOOR AREA

A. One-Story Single Family Dwellings: The ground floor area of nine hundred (900) square feet for each one-story single family dwelling erected, including manufactured homes erected outside of a Manufactured Housing District.

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Any two levels of bi-level, tri-level, or split-level type single family dwelling shall be considered the same as a one story dwelling requiring the same floor area as a one story dwelling.

B. Multi-Story Single Family Dwellings: There shall be a minimum ground floor area of six hundred eighty (680) square feet and a total floor area of one thousand two hundred (1,200) square feet for each new two- or three-story single family dwelling erected.

C. Multiple family structures shall have a minimum floor area of six hundred (600) square feet per dwelling unit.

8.16 RESERVED

8.17 HEIGHT EXCEPTIONS. The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, wireless telecommunication towers or satellite antennae; provided, however, that the Planning Commission may specify a height limit for any building or structure as a condition of special land use approval.

8.18 HOME OCCUPATION

A. General provisions. A home occupation:

- 1) Shall be conducted entirely within a residential building or within an accessory structure, and is not evident in any way from the street or from any neighboring premises.
- 2) Shall not change the character of the building in which it is conducted and does not constitute, create or increase a nuisance.
- 3) Shall be carried on only by the inhabitants of the building plus not more than one non-resident.
- 4) May only employ mechanical equipment which is similar in power and type usual for household purposes and hobbies.

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- 5) Shall not devote more than fifty percent (50%) of one story to such home occupation.

B. Signs for home occupation shall not exceed four (4) square feet in area.

8.19 HOME ORIENTATION.

On all residential lots under 3 (three) acres, all new residential construction in the RS1 and RS2 districts shall have the front of the structure oriented less than or equal to 45 (forty - five) degrees from parallel to the road right of way in which the property is addressed. The front of the structure shall include traditional improvements such as the main entrance to the structure and windows. If the structure is to be located on a corner lot, the front of the structure shall be parallel to the street right of way upon which it is addressed.

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8.20 LOT AREA COMPUTATION. Unless otherwise specified, all minimum lot area requirements for parcels of less than four (4) acres shall be met by computing the lot area, exclusive of existing public or private street rights-of-way.

8.21 LOT USE. No lot or part of a recorded plat or parcel of unplatted land may be devoted to more than one principal use unless otherwise specifically permitted.

8.22 LOT WIDTH

A. Except as provided below, minimum lot widths in all districts shall be measured along the front lot lines, and such minimum lot width shall not be diminished throughout a given lot for the front one hundred (100) feet of the depth of such lot.

B. The minimum lot width for lots fronting on cul-de-sac streets shall be measured at the rear of the required front yard and shall not be diminished throughout the depth of a given lot for the next 100 feet lot. Such lots shall have a front lot line of at least forty (40) feet and in no case shall the lot width within the front yard be less than forty (40) feet.

8.23 MIXED OCCUPANCY. Before issuing a zoning permit for any premises intended or used for a combination of residential and commercial occupancy, the Zoning Administrator shall request a report from the County Health Officer as to any hazards that exist or may be expected to exist together with recommendations as to additional provisions necessary in the interest of safety or health. Such recommendations shall be complied with before issuance of a permit.

8.24 TRAVEL TRAILERS, MOTOR HOMES, CAMPERS AND TENTS. No travel trailers, motor homes, campers, tents or other similar facilities shall be used and occupied on any lot or parcel of land in the Village of Vermontville for more than twenty-one (21) days, except in a licensed mobile home park or manufactured housing community, unless the occupant or owner of such trailer shall have first applied for and received a trailer permit. An application for such trailer permit shall be made to the Zoning Administrator stating the location of the trailer coach, the length of time such trailer coach will be parked, and what sanitary facilities will be available. Upon the filing of such application, if the Zoning Administrator finds adequate sanitary facilities will be afforded for the disposal of waste and excretions, he may issue a permit and said permit shall limit the time of such use and occupancy to a period of not longer than four (4) months.

- A. For the purpose of this Ordinance, a trailer coach and trailer coach home is hereby defined and declared to be any vehicle used or so constructed as to permit its being used as conveyance upon the public streets and highways, and shall include self-propelled and, non self-propelled vehicles so constructed, designed, and re-constructed or added to by means of an enclosed addition or room, in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, and having no foundation other than wheels, jacks, or skirting.
- B. No person shall park or cause to be parked any trailer coach or trailer coach home, overnight on any street, alley, highway, or other public place within the limits of the Village of Vermontville.
- C. No trailer coach, or trailer coach home shall at any time be parked between the curb line of any street or highway and the lot line of any adjoining lot in the Village of Vermontville.
- D. No person shall park or permit the temporary parking of any occupied trailer coach or trailer coach home, or use or occupy, or permit the use or occupancy of any trailer coach or trailer coach home on any site, lot, field, or tract of land within the limits of the Village of Vermontville, without first securing a permit therefor e from the Village Clerk of said Village.
- E. The application for a temporary permit to park, use and occupy a trailer coach or trailer coach home shall be made to the Zoning Administrator and shall provide the following information:
 - 1) The address at which it is proposed to park, use and occupy such trailer coach or trailer coach home,
 - 2) The name of the owner of the premises and the name of the owner or occupant in control of the trailer coach or trailer coach home;
- F. Upon the filing of such application, the Zoning Administrator shall call for an inspection to be made of the trailer coach or trailer coach home, and the site on which it is proposed that it be parked, used and occupied. If the Zoning Administrator finds that adequate facilities are afforded on the premises for such occupancy and use and it appears that the temporary parking, use and occupancy of such trailer coach at such location will comply with the Statutes of the State of Michigan and the ordinances of this Village, the Zoning Administrator shall approve such application upon filing thereof with the Zoning Administrator and payment of the fee required by the Village's Schedule of Fees, which fee shall be deposited in the general fund of the Village. The Zoning Administrator shall issue such permit, provided, however, that in the first instance, it shall not be parked for a period in excess of 10 day's from the date of occupancy, which said permit may be renewed on application therefor e by the said Zoning Administrator for additional periods of twenty-one (21) days each; provided, that at no time shall the total period of such occupancy exceed a period of four (4) months.

G. No lot or site shall have placed on it more than 1 trailer coach or trailer coach home, unless minimum requirements are met for each such trailer coach or trailer coach home on such site or lot.

H. No trailer coach or trailer coach home for such temporary parking to be located nearer than 25 feet from the line or the street, nor nearer than 7 feet from either side line of the lot or site on which it stands, and each such trailer coach or trailer coach home must be equipped to meet minimum requirements established for such purpose by the Statutes of the State of Michigan and the regulations of the Department of Health.

8.25 EXTERIOR LIGHTING.

A. Intent and Purpose: To maintain safe nighttime driver performance on public roadways, by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow”, and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all plot plans submitted for approval under the terms of this Zoning Ordinance.

B. General Provisions:

- 1) Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:
 - a) Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal light such as for Christmas decorating, and residential yard lights whether building mounted or pole mounted.
 - b) Sign lighting as regulated by Chapter 19 hereof.
 - c) Lighting associated with detached single family housing
- 2) Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:
 - a) Parking lot lighting and site lighting for commercial, industrial and institutional developments.
 - b) Multiple Family developments parking lot lighting and site lighting.
 - c) Publicly and privately owned roadway lighting.
 - d) Building facade lighting.
 - e) Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.
 - f) All forms of neon lighting
- 3) Standards: Lighting shall be designed and constructed in such as manner to:
 - a) Insure that direct or directly reflected light is confined to the development site.

- b) Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
- c) The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle.
- d) Lighting fixtures shall have one hundred percent (100%) cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site.
- e) Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
- f) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
- g) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

8.26 REFUSE AND JUNK. Pursuant to Article Four, Chapter 35, the outdoor storage, collection or placing of discarded material, inoperable equipment, inoperable vehicles, or other refuse, junk or trash shall be prohibited in all zoning districts.

8.27 SATELLITE DISH ANTENNA.

- A. The purpose of this section is to regulate the use of such dish antennas in excess of three (3) feet in diameter or with a surface area in excess of nine (9) square feet. Dish antennae of less than three (3) feet in diameter or surface area less than nine (9) square feet shall not be subject to the requirements of this section.
- B. Satellite dish antennae in excess of 3 feet in diameter or with a surface area in excess of nine (9) square feet shall be subject to the following requirements:
 - 1) Dish antennas exceeding ten (10) feet in height shall be prohibited in all zoning districts, except the D-1. In the D-1, the height limitations of the district shall apply.
 - 2) Such dish antennas shall not be placed on structures or buildings which are used as dwellings or areas designated as residential districts.
 - 3) Dish antennas shall not be located in front yards or within eight (8) feet of property lines in all districts.
- C. Satellite dish antennae in excess of 3 feet in diameter or with a surface area in excess of nine (9) square feet shall be permitted in all zoning districts upon approval by the Zoning Administrator, provided the following provisions are satisfied:

- 1) The dish antenna shall be permanently anchored to a foundation.
- 2) No portion of the dish antenna shall display any advertising, message, or other graphic representation other than the manufacturer's name.
- 3) A dish antenna may be mounted on the roof of a principal or accessory building in the B-1, B-2 and D-1 districts, provided it shall not exceed a height of six (6) feet above the roof.

8.28 SETBACK ON MAJOR STREETS.

A. No building shall be closer to a street than the minimum front yard requirement of its district; provided, however, that in districts other than the B-1 and B-2 Districts, the minimum front yard requirement for a lot adjoining Main Street east, north, west or south shall be measured from a line 66 feet from, and parallel to, the center line of the street.

B. In any district where the average depth of at least two (2) front yards of existing adjacent buildings within 100 feet of the lot in question and within the same block on the same side of the street is less than or greater than the minimum front yard depth described above in subsection A, then the required front yard shall be modified to be no less than the average depth of the existing adjacent buildings; provided, however, that the depth of the front yard shall not, in any case, be less than 10 feet.

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8.29 SEWER AND WATER. A building to be occupied by human beings shall be served by public water or public sanitary sewer facilities.

8.30 SITE PREPARATION - EXCAVATION AND EXTRACTION. Site preparations involving the excavation, extraction, or removal of earth and material shall be prohibited unless it is for the customary and primary purpose of erecting an authorized building, roadway, or other authorized use or improvement on the site and zoning permits have been issued. Any use that must obtain special use approval under Article 20 must likewise meet the requirements for such special use approval.

8.31 SWIMMING POOLS. Prior to the issuance of a zoning permit for the construction of an outdoor swimming pool in any zoning district, the following provisions must be satisfied:

- A. An application for permit, accompanied by a complete and detailed set of plans and specifications of the swimming pool, fencing, and related equipment, meeting as a minimum the following standards:
- 1) The swimming pool shall not be closer than ten (10) feet to any side or rear lot line and no part of any pool shall be constructed within a required front yard.
 - 2) The drain line for the pool shall be connected to a storm sewer if one is available. Where a storm sewer is not available, the pool drain may be drained in a manner approved by the County's Building Inspector. No pools shall drain into public or private sanitary sewer or septic systems. All drain connections shall be approved by the County Building Inspector before final approval is given.

- B. The applicant shall document that the installation of swimming pool will meet the provisions of The Regulations and Standards for swimming pools contained in the BOCA Building Code and National Electrical Code.

8.32 TEMPORARY SPECIAL USE PERMITS. The Zoning Administrator may issue Temporary Special Use Permits for the following uses after determining that such uses will not be detrimental to adjacent conforming uses during the permitted period of use. A second Temporary Special Use Permit may be issued by Zoning Administrator at the end of such time limit for good cause shown. A third Temporary Special Use Permit may only be authorized by the Planning Commission as a special use.

- A. Mobile Homes: An individual mobile home or other temporary structure may be used as temporary living or working quarters for up to ninety (90) days while a dwelling or structure is being constructed on the same premises. A Temporary Special Permit must be issued prior to any such use.
- B. Signs and Supplies: The storage of building supplies and machinery, temporary storage buildings, the assembly of materials and customary trade, contractor, architect and identification signs in connection with a construction project may be authorized by the Zoning Administrator for a period of up to twelve (12) months.
- C. Seasonal Uses: The Zoning Administrator may authorize a Temporary Special Permit for up to thirty (30) days for seasonal or unusual non-recurrent temporary uses and signs.
- D. Parking Areas: Temporary special permits may be issued by the Zoning Administrator for the use of unimproved parking areas.
- E. Reasonable conditions may be required with the approval of a Temporary Special Permit by the Zoning Administrator. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - 1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - 2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - 3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

F. The conditions imposed with respect to the approval of a Temporary Special Permit shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Zoning Administrator and the landowners, in writing. The Zoning Administrator shall maintain a record of conditions which are changed.

G. A fee for such temporary special permit shall be paid as determined by the Village Council.

8.33 TRAFFIC VISIBILITY. On any corner lot, no fence, structure, wall, berm, or planting over twenty-four (24) inches in height above the surface elevation of the street, except deciduous trees, shall be erected or maintained within twenty (20) feet of the intersection of right-of-way lines so as to interfere with traffic visibility across the corner of said lot. No structure or planting which is deemed a traffic hazard shall be permitted in any zone. No unshielded light of more than seventy-five (75) watts may be located nearer than thirty (30) feet to a public street unless said light source is not visible from the public street. All light sources of more than seventy-five (75) watts used to illuminate signs, parking areas, or premises shall be diffused or shielded so that the direct source is not visible from any public street. All walls and fences shall comply with Section 8.37 of this chapter.

8.34 TRAILER, TRUCK OR RECREATIONAL VEHICLE STORAGE

A. The storage or parking of trucks of more than one and one-half (1-1/2) tons or trailers of any kind shall be entirely prohibited in the RS-1, RS-2 and MFR Districts. The storage or parking of trucks of more than one and one-half (1-1/2) tons or truck trailers of any kind shall be prohibited in any front yard in any other district, except as accessory to a farm use or other authorized use.

B. The outside storage of recreational vehicles and recreational units is permitted:

- 1) In rear yard spaces.
- 2) In one (1) side yard provided it is located between the front yard and the rear yard and provided access from the front yard to the rear yard is not used for such outside storage.
- 3) Such storage shall not be permitted in any front yard, except
 - a) With approval by the Planning Commission where there is no side or rear yard: and
 - b) Such recreational vehicle or unit may be stored in a driveway within a front yard for a period of not more than twenty-one (21) consecutive days.

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- 4) Recreational vehicles and recreational units designed and designated for primary use upon a roadway or waterway shall be maintained in good repair, and operating condition.

- 5) The open storage of disassembled or component parts for such recreational vehicles or units is prohibited at all times.
- 6) Recreational vehicles shall not be used for lodging or housekeeping purposes, except as otherwise authorized by permit.
- 7) Any recreational vehicle or unit stored out of doors shall be the property of the resident, except that one (1) such authorized unit may be the property of a non-resident.
- 8) No recreational vehicle or recreational unit shall be parked or stored on any roadway or road right-of-way.

8.35 TRANSITION ZONING. Transitional Zoning: The first 75 feet of a lot or lots in single ownership retained in the R-A, RS-1, RS-2, R-M or MFR districts where the side yard adjoins a B-1, B-2 or D-1 district, may be utilized for off street parking. In the event any such area in such an area is utilized for off street parking, then there shall be provided on all side lot lines and rear lot lines of such parcel that abuts the R -A, RS-1, RS-2, R-M or MFR districts, a buffer as provided in Section 8.37 hereof.

8.36 UNCLASSIFIED USES. Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use which, although permitted, involves other features which were not contemplated or specified by this Ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that it involves features which were not contemplated or specified herein, then the Planning Commission may permit such use as a special use only after it determines that it will have no adverse effect upon adjacent property, that the use is similar to other uses in the district in which it is proposed to be placed, and the spirit, purpose and intent of the Zoning Ordinance and Master Plan are not impaired by permitting such use at the proposed location.

8.37 LANDSCAPING, BUFFERING, AND FENCES.

A. General Regulations

- 1) Landscaping shall be installed within 180 days of occupancy of the building or structure unless a longer period is permitted in writing by the Zoning Administrator.
- 2) All landscaping shall be hardy plant materials and shall be maintained thereafter in a neat, healthy and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but not longer than one growing season.
- 3) Not more than 30% of the landscaping shall consist of cobble stones, crushed stones, or other non-living material as ground cover.
- 4) Trees and shrubs in a buffer zone and in front yards shall be arranged in informal groupings and irregular spacing, to simulate a natural setting, unless site specific

conditions are such that a more formal arrangement is preferred, as determined by the Planning Commission.

- 5) All plant materials shall be installed so as not to alter drainage patterns on the site or on adjacent properties.

B. Buffer Zones

- 1) A buffer zone shall be required on the subject lot or parcel along the boundary between differing zoning districts. The following are the requirements to be met for each zone.
 - a) For Residential and Business Districts (RA, RS-1, RS-2, RM, MFR, B-1 and B-2), 1 Deciduous Tree + 4 Shrubs, or 1 Evergreen + 4 shrubs are to be planted for each 20 linear feet along the property line.
 - b) For Industrial Districts, 1 Deciduous Tree + 1 Evergreen + 4 Shrubs, or 2 Deciduous Trees + 4 shrubs are to be planted for each 20 linear feet along the property line.
- 2) Buffering requirements shall not apply where differing adjacent zoning districts are separated by a street. In such case, the front yard landscaping requirements of Section 8.37A shall apply.
- 3) Buffering shall be required, even if the abutting parcel is vacant land or open space.

C. Fences, walls, and decorative fences:

Fences, walls, and decorative fences shall comply with the following regulations and requirements:

- 1) Location:
 - a) Fences, walls and decorative fences shall not be located outside or beyond the property or lot lines of the lot upon which said improvement shall be placed.
 - b) Fences and walls greater than four (4) feet in height shall be placed no closer to the front lot line than the front yard setback line.
 - c) Fences and walls shall be located no closer to the side lot line than the side yard setback line for residential corner lots that front or face onto the side street. Fences and walls may be located nearer the side yard line when said side yard is not on a street.
- 2) Height
 - a) Fences and walls shall not exceed six (6) feet in height in any district. However, the Planning Commission may approve a greater height in the B-1, B-2 or D-1 districts if the increased height will better screen a use from the roadway or adjacent residential uses.
 - b) Decorative fences shall not exceed four (4) feet in height as measured from the grade to the top of the highest horizontal rail.

c) Design and Type:

- i All fences shall be constructed with the finished side exposed, the support posts placed on the inside, and in a manner which serves to enhance the aesthetic appearance of the neighborhood or surrounding area, except in cases where the Zoning Administrator deems it impractical.
- ii Decorative fences shall be constructed, by way of illustration, in a style similar to split rail or wrought iron fences. Decorative fences must be designed so that they are neither solid fences nor opaque screens. Openings in decorative fences, including gates, when closed, shall exceed fifty (50) percent of any one (1) square foot of vertical fence surface area.
- iii The erection of a decorative fence shall not require a permit from the Zoning Administrator.

8.38 YARDS. Every lot must provide front, rear and side yards as required within its zone district. All front yards must face upon a public or private street.

8.39 ZONING DENSITY. The maximum density of residential development allowable in any district is set forth in Table 7.8. Uses such as hospitals, nursing homes, convalescent homes, migrant housing, or similar uses where humans are housed or care is given shall provide sufficient land to meet the density requirements of the district, assuming each four persons so housed or to whom care is given is equivalent to one dwelling unit..

8.40 SITE CONDOMINIUMS. A site condominium shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967 as amended. Provided that a site condominium will comply, with all provisions of Article One and this Zoning Ordinance.

Any site condominium unit whose horizontal land area meets the minimum area requirements of a lot or parcel for the zoning district in which it is located, and is the only condominium unit on or over such land area, shall be treated as a separate lot or parcel and may have such buildings constructed thereon and such uses conducted thereon as allowed in such zoning district as if it was a separate lot, provided:

- A. Such buildings and uses are located thereon in relation to site condominium unit boundary lines as if they were lot lines.
- B. All development is in conformance with the provision of the zoning ordinance.

8.41 GARAGES

A. Garages - Private: May either be attached or detached. An attached garage shall not be considered an accessory building.

B. Attached Garage:

- 1) An attached garage shall not exceed one hundred percent (100%) of the ground floor area of the attached single family dwelling with a maximum size not to exceed twelve hundred (1,200) square feet in area.

- 2) Attached garages in the MFR District shall be limited to a maximum of (2) stalls with a total building size no greater than 600 square feet per dwelling unit.
 - C. Detached Garage. Detached garages shall be considered accessory buildings subject to Section 8.2.
 - D. Free-standing multiple garage structures will be allowed in a MFR District subject to Site Plan approval by the Planning Commission. The size of the multiple garage structure shall be calculated at a maximum of one (1) stall (300 square feet) per dwelling unit.
- 8.42 OUTDOOR STORAGE.** Yards for storage of heavy machinery, supplies and materials generally used by road builders, earth movers, and construction contractors, or unused motor vehicles, trailers or boats, or parts thereof, which may or may not be wholly owned by the property owner, shall be only located in areas approved by the Planning Commission. Such storage yards shall be entirely enclosed with a solid fence not less than six (6) feet high and not more than eight (8) feet high constructed and maintained in such suitable manner in accordance with the Village's Zoning Ordinance. In approving or disapproving such a fence to screen outdoor storage, the following standards shall be applied:
- A. The fence shall be constructed of such materials and of such design as to reasonably prevent trespassers from entering the premises by scaling such fence.
 - B. The fence shall be constructed of materials which totally obstruct the view of the premises enclosed.
 - C. The fence shall be maintained in an attractive manner and shall not be in any way used as a sign or signboard.
- 8.43 COMBINATIONS OF USES.** In the review of site plans and/or special land use permit applications for uses involving combinations of uses otherwise permitted by right or by special land use approval, the Planning Commission shall find that all such uses shall be mutually compatible with one another and that all special land use standards applicable to any such component use in a combined land use shall be met.
- 8.44 WIRELESS COMMUNICATION FACILITIES**
- A. Definitions
 - 1) A wireless communication facility shall be defined as an antenna used for the transmission and/or reception of signals for radio, television, cellular telephone, microwave, enhanced mobile radio, personal communication, pagers and similar devices. A wireless communication facility shall not be deemed to be essential public services as that term is used in this Zoning Ordinance.
 - 2) A wireless communication facility support structure shall be a lattice framework or monopole tower or any existing structure suitable for the support of wireless communication facilities, but excluding structures with a total height of less than thirty (30) feet.

- 3) Attached wireless communication facilities shall be wireless communication facilities proposed to be attached to an existing structure.
- B. Special Land Use. A proposal to establish a new wireless communication facility and wireless communication facility support structure shall only be permitted in the R-A, B-1, B-2 and D-1 districts, and shall be deemed a Special Land Use, subject to site plan and the conditions set forth below, and if approved, constructed and maintained in accordance with the standards and conditions of this Section.
- 1) Attached wireless communication facilities shall be permitted where the existing structure is not, in the determination of the Planning Commission, proposed to be either materially altered or materially changed in appearance.
 - 2) Co-location of a new attached wireless communication facility which has been previously approved for such co-location as part of an earlier approval by the Planning Commission shall not require special use approval by the Planning Commission.
 - 3) Attached wireless communication facilities consisting of a utility pole located within a public right-of-way shall be permitted where the existing pole is not proposed to be modified in a manner which, in the determination of the Planning Commission, would materially alter the structure, result in an impairment of sight lines or other safety interests or detract from the aesthetic appearance of the site.

C. Application and Review Requirements

All applications for wireless communication facilities and wireless communication facility support structures shall be reviewed in accordance with the district regulations of the zoning district in which they are located and the following standards and conditions, and if approved, shall be constructed and maintained in accordance with such standards and conditions. In the event of a conflict between the district regulations of the zoning district and the provisions of this Section, the more stringent standard shall apply.

1) Application Requirements.

- a) All applications for the required permit to place, construct or modify any part or component of a wireless communication facility or wireless communication facility support structure or for special land use approval for said facilities shall include the following:
 - i A site plan prepared, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
 - ii The existing form of technology being used and any changes proposed to that technology.
 - iii As applicable, the planned or proposed and existing service area of the facility and the attached wireless communication facility, and wireless

communication facility support structure height and type, and signal power expressed in ERP upon which the service area has been planned.

- iv The nature and extent of the applicant/provider's ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
- v The identity and address of all owners and other persons with a real property interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
- vi A certification by a registered professional engineer licensed in the State of Michigan regarding the manner in which the proposed structure will fall, in the event of structural failure due to any cause. The certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining appropriate setbacks to be required for the structure and other facilities.
- vii A description of the security to be posted at the time of receiving a building permit for the wireless telecommunication support structure to ensure removal of the structure when it has been abandoned or is no longer needed as provided in paragraph D.8). below. The security shall, at the election of the Village, be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by a designated attorney and recordable at the office of the Eaton County Register of Deeds, a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this Section, with the further provision that the applicant and owner shall be responsible for payment of any costs and attorney's fees incurred by the Village in securing removal.
- viii The site plan shall include a landscape plan in the event the wireless communication facility support structure is being placed at a location which is not otherwise part of another site plan with landscaping requirements. The purpose of landscaping is to provide screening for the wireless communication facility support structure base, accessory buildings and enclosures. In all cases there shall be fencing of at least six (6) feet in height, which is required for the protection of the tower fully enclosing the wireless communication facility support structure and any accessory structure provided with a locked gate.
- ix Evidence of site plan approval from the Federal Aviation Administration, if required due to a site's proximity to any local airport, or evidence that such approval is not required.
- x A maintenance plan, and any applicable maintenance agreement, shall be presented as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

- xi The name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
- xii A disclosure of what is proposed, demonstrating the need for the proposed wireless communication facility support structure to be located as proposed based upon the presence of one or more of the following factors:
 - ◆ Proximity to an interstate highway or major thoroughfare.
 - ◆ Areas of population concentration.
 - ◆ Concentration of industrial and/or other business centers.
 - ◆ Areas where signal interference has occurred due to buildings, masses of trees or other obstructions.
 - ◆ Topography of the proposed facility location in relation to other facilities within which the proposed facility is to operate.
 - ◆ Other specifically identified reason(s) creating need for the facility.
- xiii The reason or purpose for the placement, construction or modification with specific reference to the provider's coverage, capacity and/or quality, needs, goals and objectives.
- xiv A map showing existing and known proposed wireless communication facilities and wireless communication facility support structures within the Village of Vermontville and within Vermontville Township. The map shall also show existing buildings and/or other structures of the same approximate height as the proposed wireless communication facility support structure within a one-half (½) mile radius of the proposed site which could accommodate a feasible co-location of the applicant's proposed attached wireless communication facility. To the extent the information required is on file with the Village, the applicant shall be required only to update as needed.
- xv For each location identified in the maps required under paragraph C.,1),a),xiv of this Section, the application shall include the following information, if known, with the applicant/provider expected to exercise reasonable due diligence in attempting to obtain information through lawful means prior to application:
 - ◆ The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.
 - ◆ Whether property owner approvals exist or have been requested and obtained.
 - ◆ Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility, or if not, a

disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing wireless communication services.

- 2) Review Standards – All Applications. All applications for wireless communication facilities and wireless communication facility support structures shall meet the following standards.
 - a) The wireless communication facility support structure shall be located and designed to be harmonious with the surrounding areas, and to be aesthetically and architecturally compatible with the natural environment, as well as the environment as altered by development.
 - b) The maximum height of all new or modified attached wireless communication facilities and wireless communication facility support structures shall be one hundred seventy-five (175) feet, or such lower maximum heights as approved and/or allowed by the Federal Aviation Administration under CFR 14 Part 77. The accessory building contemplated to enclose such things as switching equipment shall be limited to the lesser of the maximum height for accessory structures within the respective district, or twelve (12) feet. The floor area of any accessory building shall be limited to no more than three hundred (300) square feet. The Planning Commission may impose requirements relating to the color and nature of the exterior surface of the accessory building and the roof thereof, so as to cause the building to be reasonably compatible with other buildings in the vicinity.
 - c) The setback of wireless communication facility support structures from any lot line shall be no less than the height of the structure, unless it can be demonstrated and certified by a registered professional engineer, that the wireless communication facility support structure has a lesser fall-zone distance.
 - d) Where the wireless communication facility support structure abuts a parcel of land zoned for residential purposes, the Planning Commission may require a greater setback along the portion of the site which abuts said residential property than that provided in the schedule of regulations for the zoning district in which the wireless communication facility support structure is located, if, in the judgment of the Planning Commission, the use of the minimum required setback distance shall constitute a detriment to persons and property on the adjoining parcel.
 - e) There shall be an unobstructed access to the wireless communication facility support structure for operation, maintenance, repair and inspection purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as: The location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service the wireless communication facility support structure and any attendant facilities; the location of buildings and parking facilities; proximity to

residential districts; minimization of disturbance to the natural vegetation; and the type of equipment which will need to access the site.

- 3) Review Standards – Special Approval Standards. In addition, all applications for wireless communication facilities and wireless communication facility support structures submitted shall meet the following standards.
 - a) The wireless communication facility support structure shall not, in the judgment of the Planning Commission, constitute a detriment to any persons, property or the general welfare.
 - b) A proposal for a new wireless communication facility support structure submitted, shall not be approved unless and until it can be documented by the applicant that the communications equipment planned for the proposed wireless communication facility support structure cannot be feasibly co-located and accommodated on an existing or approved wireless communication facility support structure or other existing structure due to one or more of the following reasons:
 - i The planned equipment would exceed the structural capacity of the existing or approved wireless communication facility support structure or building, as documented by a qualified and licensed professional engineer, and the existing or approved wireless communication facility support structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment.
 - ii The planned equipment would cause interference materially impacting the usability of other existing or imminently planned equipment at the wireless communication facility support structure or other existing structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented by any other means.
 - iii Existing or approved wireless communication facility support structures and buildings within a one-half (½) mile radius of the proposed site cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
 - iv Other unforeseen reasons that make it infeasible to locate the planned communications equipment upon an existing wireless communication facility support structure or building.
 - c) Co-location shall be deemed to be “feasible” for the purposes of this Section where all of the following are met:
 - i The applicant under consideration for co-location shall undertake to pay market rent or other market compensation for co-location.
 - ii The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

- iii The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennae, and the like.
- iv The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the Village, taking into consideration the several standards contained within this subsection.

D. General Requirements.

- 1) The division of property for the purposes of locating a wireless communication facility support structure is prohibited unless all zoning conditions are met.
- 2) The Zoning Board of Appeals may grant variances only for (1) the setback requirements of a wireless communication facility support structure, provided that the proposed location will reduce its visual impact on the surrounding area; (2) the maximum height requirement; and (3) the co-location requirements of subparagraph C., 3), b).
- 3) Where a wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that an accessory building conforms with all district requirements for accessory buildings, including yard setbacks and building height.
- 4) The Planning Commission shall, with respect to the color of the wireless communication facility support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility, the wireless communication facility support structure and the property surrounding such facilities in a neat and orderly condition.
- 5) Wireless communication facility support structures shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
- 6) If a provider fails or refuses to permit co-location on a facility owned or otherwise controlled by it, where co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Village of Vermontville. The provisions of this subsection are designed to carry out and

encourage conformity with the policy of the Village. Any proposed commercial wireless communication facility support structures shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's attached wireless communication facility and a minimum of two (2) comparable attached wireless communication facilities for additional users. Wireless communication facility support structures must be designed to allow for future rearrangement of attached wireless communication facilities upon the wireless communication facility support structure and to accept attached wireless communication facilities mounted at varying heights.

- 7) If a party who owns and/or otherwise controls a wireless telecommunication support structure shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such failure or refusal shall be deemed a violation of this Zoning Ordinance, subject to the penalties provided in Chapter 24 of this Ordinance.
- 8) When a wireless communications facility has not been used for one hundred eighty (180) days or more, or six (6) months after new technology is available which permits the operation of a wireless communication facility without the requirement of a wireless communication facility support structure, the entire wireless communications facility, that portion of the wireless communications facility or wireless communication facility support structure made obsolete by the new technology, shall be removed by the users and/or owners of the wireless communications facility. For the purposes of this Section, the removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - a) Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the wireless communications facility.
 - b) If the required removal of the wireless communications facility, a wireless communication facility support structure, or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days' written notice, the Village may remove or secure the removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the wireless communications facility.
- 9) Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

- 10) No part of the wireless communication facility or wireless communication facility support structure shall display any name, symbol, words or letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent or nearby lands. No wireless communication facility or wireless communication facility support structure shall be lighted, unless required by the Federal Aviation Administration or the Federal Communication Commission.
- 11) If, in considering the application, the Planning Commission determines that it is appropriate to obtain the services of a communications consultant and/or structural engineer, all reasonable costs and expenses thereof shall be paid by the applicant. Failure to pay such costs and expenses, or to provide information reasonably requested by the Planning Commission, shall be grounds for the withholding of the issuance of any and all approvals under this Ordinance.

8.45 OPEN SPACE PRESERVATION DEVELOPMENT. OPEN SPACE PRESERVATION DEVELOPMENT. Residential Open Space Preservation Development, as defined herein shall conform to the provisions of the Land Division Act, Act 591 of 1996, and Act 87 of 1997, as amended; and the provisions of Chapters 3, 21 and 31. A division of land on the basis of condominium ownership, which is not subject to the provisions of Act 591 or Act 87, shall comply with the requirements of Article 31 of this ordinance for Site Condominium Approvals.

- A. The terms of this Section 8.45 are intended to offer an optional open space preservation approach to residential development patterns within a reas of the Village zoned for two (2) or fewer dwelling units per acre, or if the land is served by a public sewer system, three (3) or fewer units per acre. In no event shall an Open Space Preservation Development result in more residential units on a si te than would be permitted within the zoning district under conventional development patterns.
- B. Prior to submitting an application for site plan approval to develop lands within the Village for residential purpose, an applicant considering this Open Spac e Preservation Development option shall submit a pre-application therefore to the Village Zoning Administrator. Such pre-application shall:
 - 1) State the intent to undertake an Open Space Preservation Development,
 - 2) Indicate the proposed method for the perpetual preservation of open space, and
 - 3) Indicate the proposed number of parcels, calculated as set forth in sub -paragraph 4, of this Section.
- C. Not less than 20% of the developable land area will remain perpetually in an undeveloped state by means of a recorded legal instrument which may include, but not necessarily be limited to, a conservation easement, plat dedication, master deed, restrictive covenant or other legal means that runs with the land. Such legal instrument shall be subject to the review and approval of the Village Attorney.
- D. The maximum number of lots that may be approved shall be computed by subtracting

from the parcel's total gross developable acreage a fixed percentage of 15% for street right-of-way purposes, and multiplying the remaining area by the maximum dwelling unit density for the district in accord with the following table:

Maximum Density

<u>Zoning District</u>	<u>(Dwelling Units Per Acre)</u>
RA	0.2
RS-1	2.5

- E. To achieve the permitted density and preserve the required open space, the lot area may be reduced up to 20% of the required lot area for the district and lot width may be reduced up to 33% of the required lot width in the district.
- F. The Zoning Administrator shall review the pre-application and determine compliance with the requirements of this Section. Upon the approval of the Zoning Administrator, the applicant shall submit a request for the applicable land division process - land split, subdivision or site condominium in accordance with applicable standards and rules of the Village. A building permit shall only be issued after all approvals have been granted and a copy of the recorded documents preserving the open space has been filed with the Village Clerk.